

AGENDA

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, APRIL 24, 2007
HUNTINGTON BEACH CIVIC CENTER
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:15 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: *Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*

AGENDA APPROVAL

- A. PROJECT REVIEW (FUTURE AGENDA ITEMS) - NONE
- B. STUDY SESSION ITEMS
 - B-1. MAJOR PROJECTS UPDATE/DEVELOPMENT ISSUES – Scott Hess/Ross Cranmer
 - B-2. PUBLIC HEARING PROCESS – Chair Scandura
- C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) – Herb Fauland
- D. PLANNING COMMISSION COMMITTEE REPORTS
- E. PUBLIC COMMENTS – Regarding Project Review or Study Session portions of Meeting

Anyone wishing to speak on Project Review or Study Session items during PUBLIC COMMENTS may do so by filling out a Request To Speak form and giving it to the Secretary. (4 MINUTES PER PERSON, NO DONATING OF TIME TO OTHERS)
--

- F. PLANNING COMMISSION COMMENTS

6:30 P.M. – RECESS FOR DINNER

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL: *Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley*

AGENDA APPROVAL

A. ORAL COMMUNICATIONS

Anyone wishing to speak during ORAL COMMUNICATIONS must fill out and submit a form to speak. The Planning Commission can take no action on this date, unless the item is agendaized. Any one wishing to speak on items not on tonight's agenda, a closed public hearing item, or on non-public hearing items may do so during ORAL COMMUNICATIONS. Please note comments on closed public hearing items will not be part of the permanent entitlement record. Speakers on items scheduled for PUBLIC HEARING will be invited to speak during the public hearing. (4 MINUTES PER PERSON, NO DONATING OF TIME TO OTHERS)

B. PUBLIC HEARING ITEMS

Anyone wishing to speak during an open PUBLIC HEARING must fill out and submit a form to speak. The public may address the Planning Commission only during the open PUBLIC HEARING items or during ORAL COMMUNICATIONS. Please review the agenda to determine whether the PUBLIC HEARING item is open or closed. If the PUBLIC HEARING on an item is closed, you will not be permitted to speak during that portion of the agenda and may wish to address your concerns during the ORAL COMMUNICATIONS portion of the agenda. Speakers on items scheduled for PUBLIC HEARING will be invited to speak during the public hearing. (4 MINUTES PER PERSON, WITH A MAXIMUM TIME DONATION OF 8 MINUTES, FOR A TOTAL OF 12 MINUTES PER SPEAKER)

PROCEDURE: Commission Disclosure Statement(s), Staff Report Presentation, Commission Questions, Public Hearing, Discussion/Action.

B-1. APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF MITIGATED NEGATIVE DECLARATION NO. 05-05/COASTAL DEVELOPMENT PERMIT NO. 05-07 (NEWLAND STREET IMPROVEMENTS): **Applicant:** City of Huntington Beach Public Works Department **Appellant:** Planning Commissioner Flossie Horgan **Request:** **MND:** To analyze the potential environmental impacts associated with the implementation of the proposed project. **CDP:** To permit the widening and improvement of Newland Street from Pacific Coast Highway to Hamilton Avenue, including widening the reinforced concrete bridge at Huntington Channel, installation of storm drain improvements, raising the profile of Newland Street to improve traffic visibility, adding a center striped median, adding a left turn lane from southbound Newland Street to eastbound Edison Way, and improving pedestrian access with a new sidewalk on the east side of Newland Street. **Location:** Newland Street, between Pacific Coast Highway and Hamilton Avenue **Project Planner:** **Jane James**

STAFF RECOMMENDATION: Motion to:
A. "Approve Mitigated Negative Declaration No. 05-05 with findings and mitigation measures."
B. "Approve Coastal Development Permit No. 05-07 with findings and suggested conditions of approval."

B-2. ENTITLEMENT PLAN AMENDMENT NO. 06-07 (LOWE'S RETAIL PAD SITE MODIFICATION—AMENDMENT TO CONDITIONAL USE PERMIT NO. 00-31):

Applicant: Mark Raber, Tarlos & Associates **Request:** To amend Condition of Approval No. 8 of Conditional Use Permit No. 00-31 which limits development on the vacant parcel adjacent to Lowe's Home Improvement Warehouse to a restaurant building with a maximum of 8,500 sq. ft. The proposed amendment is to allow a maximum building area of 14,200 sq. ft. on the vacant parcel.

Location: 8291 Warner Avenue (north side of Warner Avenue, east of Beach Boulevard) **Project Planner:** Tess Nguyen

STAFF RECOMMENDATION: Motion to: "Approve Entitlement Plan Amendment No. 06-07 with findings and suggested conditions of approval."

B-3. APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF TEMPORARY USE PERMIT NO. 07-01 (HUNTINGTON SURF & SPORT OUTDOOR SALES):

Applicant: Aaron Pai **Appellant:** Planning Commissioner Elizabeth Shier-Burnett **Request:** To permit temporary outdoor sales on forty-nine (49) days per year for a period of five (5) years from 2007-2011. **Location:** 126 Main Street, Unit 101 (southeast corner of Main Street and Walnut Avenue) **Project Planner:** Andrew Gonzales

STAFF RECOMMENDATION: Motion to: "Approve Temporary Use Permit No. 07-01 with findings and suggested conditions of approval."

C. CONSENT CALENDAR:

C-1. PLANNING COMMISSION MINUTES DATED FEBRUARY 27, 2007

RECOMMENDED ACTION: Motion to: "Approve the February 27, 2007, Planning Commission Minutes as submitted."

C-2. PLANNING COMMISSION MINUTES DATED MARCH 13, 2007

RECOMMENDED ACTION: Motion to: "Approve the March 13, 2007, Planning Commission Minutes as submitted."

C-3. PLANNING COMMISSION MINUTES DATED MARCH 27, 2007

RECOMMENDED ACTION: Motion to: "Approve the March 27, 2007, Planning Commission Minutes as submitted."

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett -

Commissioner Speaker -

Vice Chairperson Livengood -

Chairperson Scandura -

Commissioner Horgan –

Commissioner Dwyer –

Commissioner Farley -

ADJOURNMENT:

Adjourn to the Planning Commission Workshop scheduled for April 26, 2007, and to the next regularly scheduled meeting of May 8, 2007.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission is final unless an appeal is filed to the City Clerk by you or by an interested party. Said appeal must be in writing and must set forth in detail the action and grounds by which the applicant or interested party deems himself aggrieved. Said appeal must be accompanied by a filing fee of One Thousand Five Hundred Forty-One Dollars (\$1,541.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property or Two Thousand Three Hundred Seventy-Nine Dollars (\$2,379.00) if the appeal is filed by any other party. The appeal shall be submitted to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action.

Copies of staff reports and/or written materials on each agenda item are on file in the Planning Department, for inspection by the public. A copy of the agenda packet is also available at the Central Library (7111 Talbert Avenue).

VIDEO TAPES OF MEETINGS AVAILABLE FOR PUBLIC CHECK OUT AT THE CENTRAL LIBRARY, AND FOR DUPLICATION SERVICES IN THE CITY CLERK'S OFFICE.

HUNTINGTON BEACH PLANNING COMMISSION

Public Hearing Procedures

This statement has been prepared to provide a better understanding of the procedures for public hearings before the Planning Commission.

Regular meetings of the Planning Commission are held on the second and fourth Tuesdays of each month beginning at 5:15 p.m. in Room B-8 for a study session and then at 7:00 PM in the Council Chambers. Adjourned meetings, special meetings, and Study Sessions may be scheduled at other times.

Planning Commission proceedings are governed by the Planning Commission By-Laws, Robert's Rules of Order and the Brown Act. The following is the typical sequence of events on public hearing items:

- A. The Chairperson shall announce the item and if the public hearing is open or closed.
- B. The Planning Commission shall disclose any discussions, conversations, etc., with applicants, applicant's representatives or property owners.
- C. The staff report is presented.
- D. Questions by the Planning Commission concerning the staff report may be answered at this time.
- E. The public hearing is opened by the Chairperson.
- F. The applicant or appellant is given an opportunity to address the Commission. Time is not limited but left to the Chairperson's discretion.
- G. **Public Comments:** Staff will call all speakers by name. Please proceed to the podium. Individuals favoring and opposing the proposal are given an opportunity to address the Commission (up to four (4) minutes), or may choose to donate their time to another speaker if the "Request to Speak" form is filled out and given to the Secretary. A speaker who addresses the Commission on behalf of individuals who donate time are allowed a maximum of 12 minutes. Individuals who donate time must be present when the item is being discussed. Please state your name before addressing the Commission.
- H. The Commission may ask questions of speakers addressing the Commission.
- I. The public hearing is closed.
- J. The Commission will deliberate the matter at this time.
- K. The Commission then acts on the matter by continuing, approving, conditionally approving, or denying the petition.

The Planning Commission receives a staff report packet on the Tuesday preceding the meeting, allowing time to review each case and make further investigations in the field prior to the scheduled meeting.

Staff reports are available in the Planning Department, the Central Library and on the City's website (www.surfcity-hb.org) anytime on Wednesday preceding the Tuesday Planning Commission meeting.



City of Huntington Beach Planning Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, Director of Planning
BY: Jane James, Senior Planner *off*
DATE: April 24, 2007

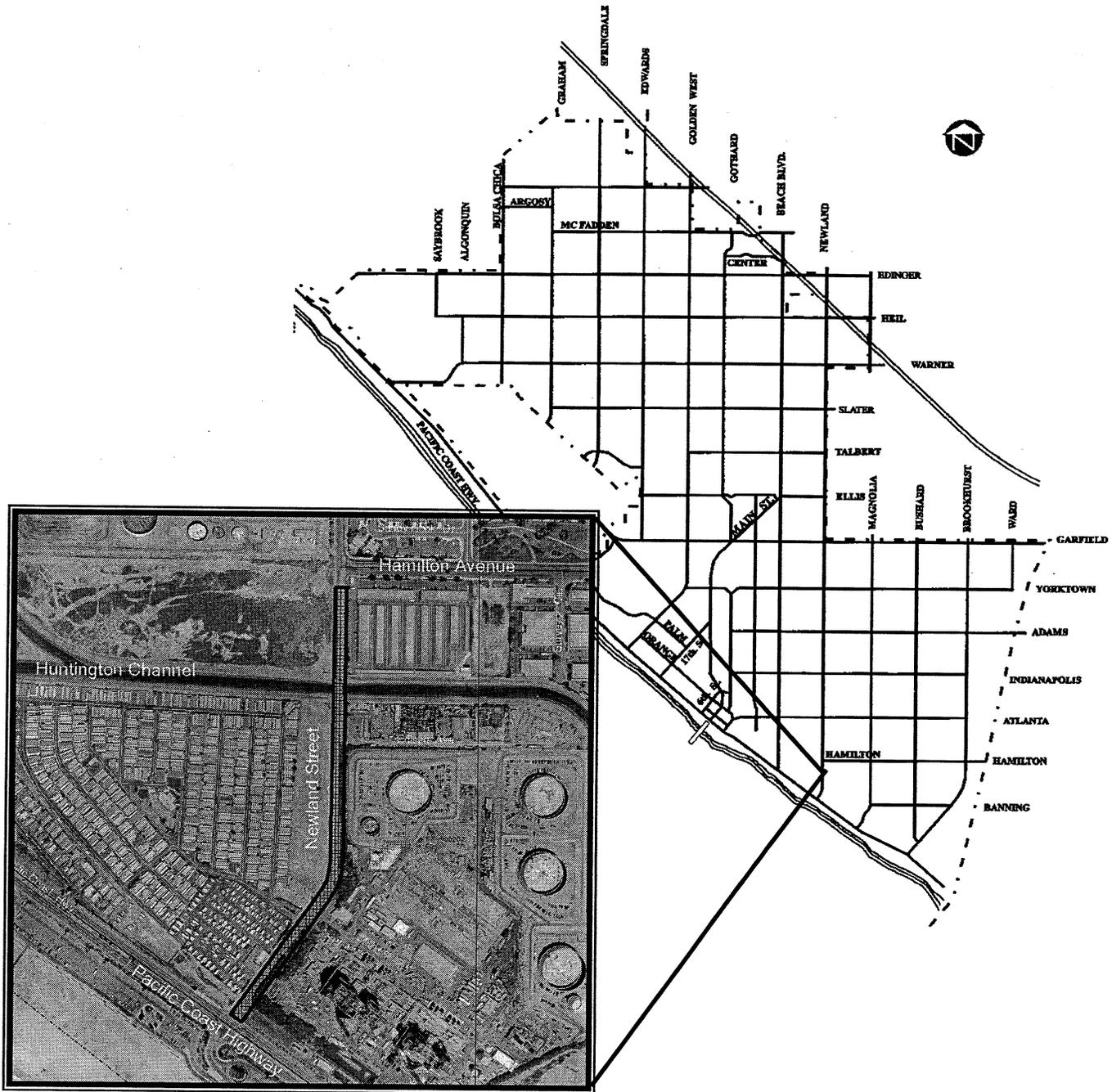
SUBJECT: **APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF MITIGATED NEGATIVE DECLARATION NO. 05-05 AND COASTAL DEVELOPMENT PERMIT NO. 05-07 (NEWLAND STREET IMPROVEMENTS)**

APPLICANT/ City Of Huntington Beach, Douglas Erdman, P.E., Civil Engineer Associate, Department
PROPERTY of Public Works, 2000 Main Street, Huntington Beach, CA 92648
OWNER:

LOCATION: Newland Street between Pacific Coast Highway and Hamilton Avenue

STATEMENT OF ISSUE:

- ◆ Mitigated Negative Declaration No. 05-05 request:
 - Analyze potential environmental impacts associated with implementation of the proposed project.
- ◆ Coastal Development Permit No. 05-07 request:
 - Widen the reinforced concrete bridge at Huntington Channel;
 - Remove an existing man-made drainage ditch and install new storm drain improvements;
 - Raise the profile of Newland Street to improve traffic visibility over the channel;
 - Add center striped median and left turn lane from southbound Newland to eastbound Edison Way;
 - Improve pedestrian access with new sidewalk on east side of Newland Street;
 - Restripe bike lanes on both sides of Newland Street;
 - Resurface Newland Street.
- ◆ Appeal of Zoning Administrator's Approval of the above entitlements:
 - Concern with impacts to wetlands;
 - Concern with impacts to water quality.
- ◆ Staff's Recommendation: Approve Mitigated Negative Declaration No. 05-05 and Coastal Development Permit No. 05-07 based upon the following:
 - Will not generate detrimental impacts;
 - Furthers the goals and policies of the General Plan;
 - Improves public access to coastal resources;
 - Completely mitigates loss of habitat and wetlands area as required by the Coastal Act and the California Department of Fish and Game;
 - Includes Best Management Practices for water quality.



VICINITY MAP
MITIGATED NEGATIVE DECLARATION NO. 05-05
COASTAL DEVELOPMENT PERMIT NO. 05-07
(NEWLAND STREET IMPROVEMENT PROJECT)

RECOMMENDATION:

Motion to:

- A. "Approve Mitigated Negative Declaration No. 05-05 with findings and mitigation measures (Attachment No. 1);"
- B. "Approve Coastal Development Permit No. 05-07 with findings and suggested conditions of approval (Attachment No. 1)."

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. "Deny Mitigated Negative Declaration No. 05-05 and Coastal Development Permit No. 05-07 with findings for denial."
- B. "Continue Mitigated Negative Declaration No. 05-05 and Coastal Development Permit No. 05-07 and direct staff accordingly."

PROJECT PROPOSAL:

Mitigated Negative Declaration No. 05-05 represents a request to analyze the potential environmental impacts associated with implementation of the project pursuant to the California Environmental Quality Act (CEQA).

Coastal Development Permit No. 05-07 represents a request by the City of Huntington Beach Public Works Department to widen and improve Newland Street pursuant to Chapter 245 (Coastal Development Permit) Section 245.06 (Permit Required) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The street improvement project is proposed on Newland Street between Pacific Coast Highway and Hamilton Avenue and includes the following:

- Widen the reinforced concrete bridge at Huntington Channel;
- Install storm drain improvements;
- Raise the profile of Newland Street to improve traffic visibility over the channel;
- Add a center striped median;
- Add a left turn lane from southbound Newland Street to eastbound Edison Way;
- Improve pedestrian access with new sidewalk on east side of Newland Street.

The street right-of-way is currently 80 feet wide at the intersection of Newland Street and Pacific Coast Highway and reduces to 60 feet wide (40 feet wide east of centerline and 20 feet wide west of centerline) approximately 700 feet north of the intersection. This section of Newland Street is a popular path used by pedestrians and bicyclists to access the beach. Currently there is a single lane of travel in each direction with no sidewalk for a majority of the distance within the project area.

Additionally, a significant grade differential exists where Newland Street crosses the Huntington Channel. This grade differential creates a stopping sight distance deficiency at the intersection of Newland Street

and Edison Way, as cars traveling south on Newland Street do not have sufficient time to react if another car has stopped to make a left hand turn onto Edison Way.

The proposed project widens Newland Street from the current 20 ft. – 40 ft. width to a 44 ft. – 48 ft. wide paved street section with bike lanes on both sides, a sidewalk on the east side, and a striped center median. The proposed widening will also address stopping sight distance deficiency by raising the road grade at the Huntington Channel and providing a left turn lane at the intersection of Newland and Edison Way. No additional travel lanes are proposed and Newland Street will remain a single lane of travel in each direction after completion of the project. As part of the widening, two existing streetlights will be relocated, and three additional streetlights, similar to those existing, will be installed along the east side of Newland Street.

The proposed widening improvements will impact the existing drainage along Newland St., requiring replacement of an unimproved drainage ditch to the east of the roadway. The drainage ditch has no natural outlet. In previous years, a City pump system located at the downstream end of the ditch automatically pumped the storm water from the ditch through a force main to a culvert located at the intersection of Newland Street and Pacific Coast Highway. A few years ago, however, when there was concern over high bacteria levels within the coastal waters, the city removed the automated pump system during the dry season to eliminate the ditch as a possible source of bacteria. During storm events, the City currently operates a temporary pump system to keep the ditch from flooding Newland Street.

The proposed project replaces the existing unimproved drainage ditch with a 39 inch reinforced concrete pipe storm drain and associated catch basins. The new storm drain system eliminates the need for a pump/force main to provide the drainage for Newland Street from the Huntington Channel to Pacific Coast Highway. In addition, the City will install a sewer line stub. The sewer line stub will accommodate a future relocation of the existing sewer line in Edison Way. The purpose of installing the sewer stub at this time is to minimize disruption to the street system at the time of future construction of the relocated sewer line.

A Reinforced Concrete Box (RCB) acts as a bridge where Newland Street crosses the Huntington Channel. In order to accommodate the road widening, the ends of this box must be lengthened within the channel, requiring the removal of the headwalls on the upstream and downstream ends. New extensions of the RCB will be formed and poured within the flood control channel.

The County recently completed a significant capacity expansion of the Huntington Channel by driving sheet piles along the banks and removing fill, converting the channel from an earthen walled trapezoidal channel to a rectangular steel walled channel. The County stopped their sheet piling approximately 20 feet short of the Newland Street Bridge on both the upstream and downstream sides, in order to accommodate the City's widening of the bridge. In order to provide interim protection of the existing bridge against erosion, the County placed rip-rap to prevent scouring around the headwall of the RCB. As part of this project, the City will remove the rip-rap material and clean out any sediment that accumulated within the existing RCB cells.

As part of the bridge widening within the Huntington Channel several existing utilities hung on the side of the existing RCB shall be relocated to pass underneath the expanded portion of the RCB. These utilities include a privately owned fuel line and a City owned 12 inch water main. In addition the City will be installing a 36 inch steel sleeve underneath the upstream section of the lengthened RCB. The sleeve

would accommodate a future water transmission main. The purpose of installing the sleeve underneath the RCB at this time is to minimize disruption to the flood control channel for construction purposes.

Work within the channel will require the use of an excavator to remove the existing rip-rap material and to clear a portion of the channel floor to form the RCB extensions. Temporary dams or some other method of isolating the RCB from the channel flow will also be required to facilitate the construction of the lengthened sections. The isolation method used will be at the contractor's discretion, but could include the use of inflatable dams.

The AES Power Generation Facility recently dedicated property to the City along their frontage on Newland Street to accommodate the widening project. The widening of the RCB under the Huntington Channel will take place within the County owned flood control channel under an operating agreement between the City and the County. All other improvements will take place within the existing City owned right-of-way.

It is anticipated that construction will take approximately six to eight months to complete.

Zoning Administrator Action:

The Zoning Administrator approved the requested project on February 21, 2007 for the following reasons:

- Negative Declaration No. 05-05 was prepared in accordance with CEQA; comments received and an Errata to Negative Declaration No. 05-05 were considered by the Zoning Administrator;
- Mitigation measures, incorporated into the conditions of approval avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. Loss of wetland acreage will be fully mitigated through an agreement and payment of funds to the Wetland and Wildlife Conservancy to restore an existing 1.597 acre site with water supply, grading, and vegetation removal resulting in a total 0.97 acre restored wetland area;
- Conformance with the General Plan, including the Local Coastal Program;
- Consistent with the base zoning district;
- Infrastructure is provided;
- Improves access to coastal resources by improving the quality of the street, restriping bike lanes on both sides of Newland Street, improving the sight visibility over Huntington Channel, constructing a sidewalk on the east side of Newland Street, and reducing the risk of flooding.

At the Zoning Administrator public hearing staff recommended approval of the project for the reasons outlined above. One person, representing the property owner of the RV and mobile home park on the west side of Newland Street, spoke at the meeting. The speaker questioned why improvements were not being made along their frontage on the west side of the street. Staff answered that the City was not able to obtain the right-of-way along that section of Newland and therefore, no improvements would be made. The speaker also inquired about storm drain improvements due to the consistent flooding on the street. Staff indicated that a new storm drain system is planned as part of the street improvements to alleviate the existing flooding problems. There were no other speakers.

Appeal:

On March 7, 2007 Planning Commissioner Flossie Horgan filed an appeal of the Zoning Administrator's approval. Commissioner Horgan cited concerns with impacts to wetlands and water quality in her appeal letter. These issues will be further discussed in the Analysis section below.

ISSUES:

Subject Property and Surrounding Land Use, Zoning and General Plan Designations:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property:	Public Street	Public Street	Newland Street
West of Subject Property:	CV (Visitor Serving Commercial); RM-15 (Medium Density Residential-Max. 15 units/acre); OS-C (Open Space-Conservation)	CV-CZ-FP2 (Visitor Serving Commercial-Coastal Zone-Floodplain); IL-CZ-FP2 (Limited Industrial-Coastal Zone-Floodplain); CC-CZ-FP2 (Coastal Conservation-Coastal Zone-Floodplain)	Vacant with RV/ Mobile home park beyond; open space
East of Subject Property:	P (Public); I-F2-d (Industrial-0.5 Floor Area Ratio-Design Overlay)	IG-CZ-FP2 (General Industrial-Coastal Zone-Floodplain); PS-CZ-FP2 (Public Semi-Public-Coastal Zone-Floodplain); IL-CZ-FP2 (Limited Industrial-Coastal Zone-Floodplain)	Wetlands and Wildlife Conservancy; AES; Humane Society; Industrial

General Plan Conformance:

As can be seen in the above chart, the General Plan Land Use Map designations surrounding the public street vary between Pacific Coast Highway and Hamilton Avenue. The proposed street improvement project is consistent with the goals and objectives of the City's General Plan as follows:

A. Circulation Element

Goal CE 6: Provide a city-wide system of efficient and attractive pedestrian, equestrian, and waterway facilities for commuter, school, and recreational use.

Objective CE 6.1: Promote the safety of bicyclists and pedestrians by adhering to Caltrans and City-wide standards.

Policy CE 6.1.10: Implement appropriate traffic devices and operation programs throughout the community to ensure that conflicts between pedestrians, bicycles, and vehicles are minimized and safety enhanced.

The street improvement project includes a sidewalk on the east side of Newland, new striped bike lanes on both sides of Newland and addresses a sight visibility issue over Huntington Channel to improve safety and minimize conflicts between pedestrians, bicyclists, and motorists.

B. Coastal Element

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

The loss of 0.16 acres of area under the jurisdiction of the California Department of Fish and Game, which includes 0.022 acres of wetlands, is fully mitigated with restoration of a 1.597 acre site nearby. The restoration project includes introduction of a water supply, grading, and vegetation removal resulting in a fully restored net 0.97 acre wetland site.

Policy C 2.8.1: Promote safe pedestrian access to the beach from the inland side of Pacific Coast Highway.

The street widening and infrastructure improvement project provides a new sidewalk on the east side of Newland Street between Pacific Coast Highway and the existing sidewalk just south of Hamilton Avenue where no sidewalk exists today. Currently all pedestrians are walking either within the roadway or in the unimproved dirt area on the west side of the street. The street narrows over the bridge crossing Huntington Channel and further reduces the area available for pedestrians. The new sidewalk improvements promote safe pedestrian access to the beach from the inland side of Pacific Coast Highway.

Policy C 6.1.20: Limit diking, dredging, and filling of coastal waters, wetlands, and estuaries to the specific activities outlined in Section 30233 and 30607.1 of the Coastal Act and to those activities required for the restoration, maintenance, and/or repair of the Municipal Pier and marina docks. Conduct any diking, dredging, and filling activities in a manner that is consistent with Section 30233 and 30607.1 of the Coastal Act.

Policy C 7.2.6: Prohibit fill in any wetland area for the purpose of road construction, except for roads allowed pursuant to Section 30233 of the Coastal Act or when required to serve uses allowed in wetlands pursuant to and consistent with Section 30260-30264 of the Coastal Act for coastal dependent and energy uses. Any roads governed by this policy shall be limited to necessary access roads appurtenant to the facility, and shall be permitted only where there is no feasible, less environmentally damaging alternative and where feasible mitigation measures have been provided.

Goal C 9: Provide water, sewer, and drainage systems that are able to support permitted land uses; upgrade existing deficient systems, and pursue funding sources to reduce costs of wastewater service provision in the City.

Although the street widening and infrastructure improvement results in the loss of 0.16 acres of habitat area under the jurisdiction of California Department of Fish and Game, the 0.16 acres contains only 0.022 acres or 876 square feet of wetlands area. Coastal Act Section 30233 states that the diking, filling or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less

environmentally damaging alternative and where feasible, mitigation measures have been provided to minimize adverse environmental effects. Section 30233 further states that diking, filling, or dredging shall be limited to the following and then lists numbers 1) through 8) of authorized reasons to fill.

The Newland Street Improvement project falls under number “5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.”

The project would fill a small isolated wetland for the public purpose of widening an existing roadway for public safety and improving a problematic drainage system. Filling of the ditch is necessary because there is no space to widen the street without impacting the ditch. Furthermore, the ditch currently presents a public service problem because it requires pumping to keep it from flooding. Currently, the wetlands that would be filled have minimal biological value. The ditch is isolated from other natural habitats and vegetation and, by necessity, is cleared periodically to reduce flooding and fire problems. The loss of approximately 0.02 acres of freshwater marsh habitat in the ditch and the loss of 0.002 acres of three small pickweed patches will be mitigated by the restoration of tidal flow to a portion of the Huntington Beach Wetlands in a 1.597 acre parcel at the north end of Upper Magnolia Marsh. The restored wetlands will have much greater functional value than the degraded wetlands in the isolated ditch. Therefore the proposed mitigation measure would minimize the adverse effects of filling the drainage ditch and there is no feasible less environmentally damaging alternative available.

Section 30607.1 of the Coastal Act discusses mitigation measures for filling of wetlands and states that mitigation, “...shall include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency...”

As noted above the restoration of Upper Magnolia Marsh complies with the mitigation requirements established in Coastal Act Section 30607.1 because a gross 1.597 acre (net .97 acres) area will be opened to tidal action. The Upper Magnolia Marsh restoration project far exceeds the CDFG 1:1 mitigation requirements for the loss of 0.16 acres of habitat area.

Zoning Compliance:

The street widening and infrastructure improvement project is compatible with zoning designations on the adjacent properties. No above ground structures, other than street lights and pet waste bag stations are proposed in conjunction with the street improvement project. New sidewalks, landscaping, and infrastructure improvements are all consistent with surrounding zoning designations.

Urban Design Guidelines Conformance:

The Urban Design Guidelines do not contain any unique recommendations applicable to the proposed street widening and infrastructure improvement project.

Environmental Status:

Staff has reviewed the environmental assessment and determined that no significant impacts are anticipated as a result of the proposed project that could not be mitigated to a level of insignificance with proper design and engineering. Subsequently, Mitigated Negative Declaration No. 05-05 (Attachment No. 5) was prepared with mitigation measures pursuant to Section 240.04 of the HBZSO and the provisions of the California Environment Quality Act (CEQA).

The City of Huntington Beach notified all responsible and interested agencies, interested groups, individuals, and property owners within a 500 ft. radius that Draft Mitigated Negative Declaration No. 05-05 had been prepared for the proposed project. The City also used several methods to solicit input during the review period for Draft Mitigated Negative Declaration No. 05-05. The following is a list of actions taken during the preparation, distribution, and review of the Draft Mitigated Negative Declaration No. 05-05:

1. A cover letter and copies of the Draft Mitigated Negative Declaration No. 05-05 were filed with the State Clearinghouse on July 21, 2006. The State Clearinghouse assigned Clearinghouse Number 2006071099 to the proposed project. A copy of the cover letter and the State Clearinghouse distribution list is available for review and inspection at the City of Huntington Beach, Planning Department, 2000 Main Street, Huntington Beach, California 92648.
2. An official 30 day public review period for Draft Mitigated Negative Declaration No. 05-05 was established by the State Clearinghouse. It began on July 21, 2006 and ended on August 21, 2006. Public comment letters were accepted by the City of Huntington Beach through October 20, 2006.
3. Notice of the Draft Mitigated Negative Declaration No. 05-05 was published in the Huntington Beach Independent on July 20, 2006. Upon request, copies of the document were distributed to agencies, groups, organizations, and individuals.

A total of five comment letters were received for Draft Mitigated Negative Declaration No. 05-05. Although not required by the California Environmental Quality Act (CEQA), a Response to Comments and Errata were prepared for the Zoning Administrator's review and consideration.

Environmental Board Comments:

The Environmental Board was notified of the Draft Mitigated Negative Declaration. On August 17, 2006, the Environmental Board provided a letter (Attachment No. 5) addressing several issues including:

- Bridge overcrossing and accommodation for future widening
- Appropriate wetland mitigation by keeping mitigation local
- Storm water runoff through the AES Power Generation Facility
- Advance notice of traffic lane closures
- Landscaping
- Right-turn lane at Hamilton and Newland
- Clarification of new sidewalk improvements
- Recycling of demolition materials

A response and Errata describing changes to Mitigated Negative Declaration No. 05-05 and the mitigation measures have been prepared (Attachment No. 5).

Prior to any action on Coastal Development Permit No. 05-07, it is necessary for the Planning Commission to review and act on Mitigated Negative Declaration No. 05-05. Staff, in its initial study of the project, is recommending that the mitigated negative declaration be approved with findings and mitigation measures.

Coastal Status:

The proposed project is partially within the non-appealable and appealable portions of the Coastal Zone. Coastal Development Permit No. 05-07 is being processed concurrently with Mitigated Negative Declaration No. 05-05 pursuant to Chapter 245 of the HBZSO. The proposed project complies with the zoning code and Coastal Zone requirements, and will implement the policies of the Coastal Element of the General Plan as detailed in the General Plan Conformance section above.

Redevelopment Status:

This section of Newland Street establishes the western border of the Southeast Coastal Redevelopment Project. The Economic Development Department has reviewed the request and supports it.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns and Requirements:

The Departments of Public Works, Fire, and Building and Safety have reviewed the request and have no concerns.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on April 12, 2007, and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), applicant, and interested parties. As of April 17, 2007, one written letter and two telephone calls supporting the request have been received.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:

Mitigated Negative Declaration: July 5, 2006

Coastal Development Permit: July 5, 2006

MANDATORY PROCESSING DATE(S):

January 1, 2007 (180 days after application deemed complete)

60 days after action on Negative Declaration

The project was heard and approved by the Zoning Administrator on February 21, 2007 and subsequently appealed to the Planning Commission.

ANALYSIS:

This section of Newland Street is located within the Coastal Zone. The primary Planning issue to consider is maintaining public access to Coastal Resources both during construction and after implementation of the street improvement project. Additionally, Commissioner Horgan cites concerns with wetlands impacts and water quality issues in her appeal letter.

Public Access

The proposed street improvement project promotes safe pedestrian, bicycle, and vehicular traffic from the inland side of Pacific Coast Highway to the beach. The following is a brief summary of all aspects of the public access benefits provided by the project:

- New sidewalk on east side to link to existing sidewalk just south of Hamilton Avenue
- Replace deteriorated, potholed street surface
- Restriped bike lanes on both sides of Newland
- More room for pedestrian, vehicles, and bikes
- Center striped median
- Left turn lane from southbound Newland to eastbound Edison where left turns are currently prohibited
- Raise profile of street over Huntington Channel to improve traffic visibility
- New storm drain system reduces street flooding, which impacts public access
- Relocated and new street lights
- Elimination of drainage ditch reduces collection point for pet waste
- New pet waste bag stations

The City receives numerous inquiries regarding the safety and condition of Newland Street. The proposed project improves the function and appearance of Newland Street while simultaneously improving the public's ability to access coastal resources. While two small habitat areas will be eliminated as a result of the project, neither has significant biological value due to their location and size, and the loss is completely mitigated through restoration of a much larger nearby wetland area.

Appeal of Zoning Administrator's Approval

Commissioner Horgan's appeal letter listed concerns with the project's compliance with Coastal Act Section 30233 and overall impacts to wetlands areas. Please see General Plan Conformance section above for a detailed discussion on the project's compliance with the Coastal Act as well as the City's Coastal Element.

Impacts to Wetlands

In order to address concerns with impacts to wetlands and/or habitat area the following summary of the project's impacts is provided:

Bridge Widening over Huntington Channel:

- County of Orange completed vertical sheet piling of the channel banks approximately three years ago
- County placed rip-rap under bridge in anticipation of City bridge widening project
- Three small patches of pickleweed have since grown in three areas under bridge, which are now determined to be wetlands
- The wetlands patch on the northeast side of the bridge is 9 sq. ft.; on the southwest side is 25 sq. ft.; and on the northwest side is 32 sq. ft.
- These three patches total 66 sq. ft. or 0.002 acres of wetlands that would be removed
- US Army Corps of Engineers (USACE) takes jurisdiction over 2,340 sq. ft. or 0.05 acres of submerged channel area (length of channel widening up to Observed High Water Mark)
- California Department of Fish and Game (CDFG) takes jurisdiction over 3,080 sq. ft. or 0.07 acres of channel area both below and above water (length of channel widening up to tops of banks)

Drainage Ditch on East Side of Newland Street

- Constructed ditch (not natural) with no outlet; now manually pumped during wet season;
- 810 sq. ft. or 0.02 acres of wetlands area would be removed with street widening, new storm drain and new sidewalk
- No USACE jurisdiction because not a natural drainage area and isolated from other Waters of the United States; therefore no Section 404 permit
- Regulated by Regional Water Quality Control Board and covered under Section 401 Water Quality Certification for channel
- CDFG takes jurisdiction over 3,740 sq. ft. or 0.09 acres (entire ditch)

Mitigation Measure to Replace Wetlands

- Wetlands impacted = 876 sq. ft or 0.022 acres
- CDFG jurisdictional area impacted = 0.16 acres (0.07 channel + 0.09 ditch = 0.16 acres to be mitigated)
- CDFG requires 1:1 ratio for mitigation; therefore, 0.16 acres must be restored, monitored, and demonstrated as a successful functioning wetlands
- \$75,000 agreement with Huntington Beach Wetlands and Wildlife Conservancy to restore Upper Magnolia Marsh, a gross 69,000 sq. ft. or 1.597 acre triangular area
- Restoration of water supply, grading, and vegetation removal results in net 42,109 sq. ft. or 0.97 acres of restored wetlands
- Restoration of 0.97 acres for a 0.16 acre area, of which 0.022 acres are wetlands, substantially exceeds CDFG requirement for a 1:1 mitigation ratio
- Publicly noticed that Public Works may request credit for Magnolia Street Improvements as well, but that project is subject to its own environmental analysis and mitigation program

When the environmental assessment for the project was originally distributed for public review, the loss of wetlands and habitat area was to be mitigated by contributing funds to the Santa Ana River Mitigation Bank. In response to comments received, however, the in-lieu fee mitigation measure was replaced when a local wetlands restoration project was identified. The restoration project, described below, will be funded by the City of Huntington Beach Public Works Department.

The specific restoration project involves the Upper Magnolia Marsh, a triangular 1.6 acre site owned by the Huntington Beach Wetlands Conservancy. The site is located at the north end of the Magnolia Marsh and is bounded by the AES Power Generation Facility to the west, the Huntington Flood Control Channel to the east, and an earthen berm to the south, which separates the Upper Magnolia Marsh from the larger Magnolia Marsh. The area is completely isolated from tidal exchange but retains some of its wetland character by periodic storm water and a relatively high ground water table. There are several elevated oil pipelines that cross the marsh and require protection in-place. The adjacent Huntington Channel is a full tidal channel that flows unrestricted to the ocean, approximately 1.3 miles downstream.

The total area of the Upper Magnolia Marsh is 69,000 square feet (1.597 acres). The proposed mitigation project includes construction of a berm outside the pipeline easement area, which will provide 42,109 square feet (0.97 acres) of land available for restoration. The restoration project consists of three elements: water supply, grading, and vegetation removal. Water will be supplied by the installation of a 24" diameter culvert approximately 115 feet in length that will be placed in the existing western levee of the flood control channel. A concrete headwall would be built at both ends of the pipe. Secondly, the site would be graded to create approximately 4,300 square feet of sub-tidal habitat, approximately 5,200 square feet of inter-tidal habitat and approximately 32,551 square feet of upper marsh habitat. The third element is to remove non-native trees and shrubs along the western side of the property. The vegetation is predominantly Myoporum, Ice Plant, and several species of palms.

The Newland Street Widening project will impact 0.16 acres of habitat area under the jurisdiction of the CDFG. The total estimated cost for restoration of this 0.97 acre Upper Magnolia Marsh site increased from \$70,835.00 in late 2006 to approximately \$75,000.00 today. Therefore, the prorated cost of mitigating the 0.16 acres affected by the proposed project, at a 1:1 ratio as required by CDFG, is \$12,000.00 ($0.16 \times \$75,000.00 = \$12,000.00$). However, CDFG restoration criteria include identifying a specific site, specifying a particular acreage, performing the actual restoration, and documenting the success of the restoration for a five year period. Therefore, although the total cost of restoration of the identified site far exceeds the obligation of the Public Works Department for the proposed Newland Street Improvement project, the total restoration of the Upper Magnolia Marsh will be completed as required.

It should be noted that the Public Works Department also has a pending street widening project on Magnolia Street between Pacific Coast Highway and Huntington Channel. A preliminary biological resource study and wetlands delineation completed for the Magnolia Street Improvement project indicates that approximately 0.4 acres of wetlands will be impacted with the proposed improvements. Based on the restoration costs identified above, the Magnolia Street Improvement project would be required to fund \$30,000.00 ($0.4 \times \$75,000.00 = \$30,000.00$) towards wetlands restoration. Combining the obligations for Newland Street and Magnolia Street, the Public Works Department would be able to mitigate the loss of wetlands from both projects by contributing a total of \$42,000.00 ($\$12,000.00 + \$30,000.00$) to the Huntington Beach Wetlands Conservancy for the Upper Magnolia Marsh site. As noted above, restoration criteria requires project completion and extended monitoring. The project could not be completed for \$40,000.00 so the full \$75,000.00 must be funded by the Public Works Department. It is reasonable, however, to allow credit and mitigation for both street improvement projects to be satisfied by the full \$75,000.00 payment to the Huntington Beach Wetlands Conservancy with a corresponding agreement regarding the restoration project. The City will transfer funds to the Conservancy and the Conservancy will carry out the three elements of the restoration and provide appropriate documentation and monitoring of the project to the California Department of Fish and Game for a five year period.

The \$75,000.00 agreement and complete restoration project will proceed with implementation of the Newland Street Improvement project with or without the future Magnolia Street Improvement project.

Water Quality

Commissioner Horgan's appeal letter also cited concerns with water quality. Commissioner Horgan quotes a comment letter from the California Regional Water Quality Control Board (CRWQB) where the CRWQB expresses concern, "...that the proposed new storm drain will continue to convey dry and wet weather flows and their associated pathogenic bacteria loading to the ocean, via the AES outfall. It is already established that discharges from the storm drain via the AES outfall contributed to the elevated levels of pathogenic bacteria that have caused violations of beach water quality standards at Huntington State Beach. Pet waste along Newland St. has been identified as the most prominent source of these bacteria, and no management measures or Best Management Practices (BMP) have been implanted to control or eliminate that source."

This section of Newland Street is a popular path used by pedestrians and bicyclists to access the beach. Currently there is only a single lane for vehicular travel in each direction with no sidewalk or bike lane for a majority of the distance within the project area. Pedestrians must walk along the unimproved dirt shoulders, one of which is adjacent to the existing dirt drainage swale.

The drainage ditch has had a history of problems, as there is no natural outlet for this ditch, allowing for the accumulation of trash, debris and pet waste from pedestrians walking their pets to build up. In previous years, the City had a pump system set up at the downstream end of the ditch to automatically turn on and pump the storm water from the ditch, through a force main, to a culvert located at the intersection of Newland Street and Pacific Coast Highway. A few years ago, when there was concern over high bacteria levels within the coastal waters, the city removed the automated pump system during the dry season, to eliminate the ditch as a possible source of bacteria. During the rainy season the City has a temporary pump system installed at this location which is only active during storm events to prevent the flooding of Newland Street.

The project includes several BMPs to control or eliminate the source of pet waste and other debris from the storm drain system. The proposed widening will fill in the existing drainage ditch, widen Newland Street to the ultimate right-of way width, replace the dirt shoulder with new concrete curb, gutter, and sidewalk, and replace the existing unimproved drainage ditch with a 39 inch reinforced concrete pipe storm drain and associated catch basins.

The proposed widening will also raise the grade of Newland at Edison Way to address stopping sight distance deficiency. This grade change will change the shoulder along the westerly side of the road from a flat dirt shoulder to a sloped shoulder. The construction of the new sidewalk on the easterly side of Newland, and the sloped shoulder along the westerly side of Newland, will encourage pedestrians to keep to the sidewalk, creating a significantly smaller area of unimproved right-of-way for pedestrians to allow their pets to use. With the addition of pet waste bag stations along the new sidewalk, the City expects a significant reduction in the amount of contaminants entering the storm drain system at this location.

In addition the City plans to install a gross pollutant separator device on the new storm drain line just upstream of the existing catch basin at Pacific Coast Highway and Newland Street. The proposed unit is a Continuous Deflective Separator, or CDS unit. This unit has a cylindrical stainless steel screen through

which the storm water is diverted. The unit captures the trash and sediment and collects it in a sump basket. From there, the storm water, now free of trash, flows on through the drains to the existing outfalls, minus the trash, debris, vegetation and coarse sediment which are captured in a sump inside the unit. The unit does not capture any bacteria or viruses that may be in the runoff as it only picks up the solids.

After the Zoning Administrator hearing, the City received conceptual approval from the Orange County Sanitation District (OCSD) to allow dry weather diversion of urban runoff into the OCSD's existing 48" Trunk Sewer in Newland Street. The Public Works Department is now working with a consultant to perform a Wastewater Characterization Study as required by OCSD. Final permits still need to be obtained from OCSD in regard to this connection, as this storm drain outfall was not listed as part of the regional agreement between OCSD and the participating agencies as an outfall in need of diversion.

In any event, diversion to the sewer system will only be for dry weather flows as OCSD does not allow diversion of any wet weather flows in any locations. OCSD does not have the capacity to accept any wet weather flows for diversion. It should be noted that all storm drains within Huntington Beach lead to the ocean and most consist of outfalls discharging rain water directly onto the sand. In this case, the historic drainage pattern for Newland Street was established in the 1950s when the power generation facility was constructed. The power facility designed their drainage system to accept the drainage from a small (approximately 12 acre) upstream area, routing the storm water through the plant, and discharging off-shore out in the ocean. Amending that drainage pattern today would consist of constructing an alternative discharge location but would still result in discharge to the ocean.

While not a part of the proposed project, the City has identified the parcel at the northeast corner of Pacific Coast Highway and Newland street as a possible source of storm drain contaminants (pet waste), due to the proximity of an existing storm drain culvert and a history of use by the residents of the adjacent trailer park as a place to walk their pets. The City has taken steps to address this situation with the property owner. The City's Administrative Environmental Specialist has met with the affected parties including the property owner and the trailer park management company to resolve this situation. The trailer park management company created several new areas within the trailer park for pet usage, as well as committing to maintaining the vacant lot by clearing it of pet waste, trash, and debris on a daily basis. The property owner is currently working with the City's Planning Department to erect a fence around the perimeter of the vacant lot to protect the area from intrusion by trash, debris and animals.

It is the City's expectation that the proposed improvements, along with the actions taken by the City and other parties, will significantly reduce contaminants entering the storm drain system along this section of Newland Street.

SUMMARY:

Staff recommends approval of the request based on findings that the proposed street improvement project:

- Will not generate detrimental impacts;
- Furthers the goals and policies of the General Plan;
- Improves public access to coastal resources;
- Completely mitigates loss of habitat and wetlands area as required by the Coastal Act and the California Department of Fish and Game;
- Includes Best Management Practices for water quality.

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval – Mitigated Negative Declaration No. 05-05 and Coastal Development Permit No. 05-07
2. Site Plan received and dated January 10, 2005
3. Project Narrative dated July 5, 2006
4. Planning Commissioner Horgan Appeal Letter received and dated March 7, 2007
5. Response to Comments and Errata for Draft Mitigated Negative Declaration No. 05-05, and Environmental Assessment No. 05-05 – *Not Attached, Available for review in Planning Department*
6. Zoning Administrator's Notice of Action dated February 22, 2007
7. Zoning Administrator Minutes dated February 21, 2007
8. Letter from John Carter received and dated March 22, 2007

SH:HF:RR:JJ:cs

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

MITIGATED NEGATIVE DECLARATION NO. 05-05

COASTAL DEVELOPMENT PERMIT NO. 05-07

SUGGESTED FINDINGS FOR APPROVAL – MITIGATED NEGATIVE DECLARATION NO. 05-05:

1. The Mitigated Negative Declaration No. 05-05 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Planning Commission prior to action on the Mitigated Negative Declaration and Coastal Development Permit No. 05-07. As a result of comments received an Errata to Mitigated Negative Declaration No. 05-05 was prepared and considered by the Planning Commission prior to action on the subject entitlement.
2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. The proposed street improvement project will impact 0.16 acres of wetlands by construction of improvements in the Huntington Channel and by eliminating a drainage ditch on the east side of Newland Street. Loss of this wetland acreage will be fully mitigated through an agreement and payment of funds to the Wetlands and Wildlife Conservancy to restore an existing 1.597 acre site with water supply, grading, and vegetation removal resulting in a total 0.97 acre restored wetland area.
3. There is no substantial evidence in light of the whole record before the Planning Commission that the project, as mitigated through the conditions of approval for CDP NO. 05-07, will have a significant effect on the environment.

SUGGESTED FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 05-07:

1. Coastal Development Permit No. 05-07 for the improvements to Newland Street between Pacific Coast Highway and Hamilton Avenue, including widening the reinforced concrete bridge at Huntington Channel, installation of storm drain improvements, and raising the profile of Newland Street to improve traffic visibility, conforms with the General Plan, including the Local Coastal Program as follows:

A. Circulation Element

Goal CE 6: Provide a city-wide system of efficient and attractive pedestrian, equestrian, and waterway facilities for commuter, school, and recreational use.

Objective CE 6.1: Promote the safety of bicyclists and pedestrians by adhering to Caltrans and City-wide standards.

Policy CE 6.1.10: Implement appropriate traffic devices and operation programs throughout the community to ensure that conflicts between pedestrians, bicycles, and vehicles are minimized and safety enhanced.

The street improvement project includes a sidewalk on the east side of Newland, new striped bike lanes on both sides of Newland and addresses a sight visibility issue over Huntington Channel to improve safety and minimize conflicts between pedestrians, bicyclists, and motorists.

B. Coastal Element

Objective C 1.1: Ensure that adverse impacts associated with coastal zone development are mitigated or minimized to the greatest extent feasible.

The loss of 0.16 acres of area under the jurisdiction of the California Department of Fish and Game, which includes 0.022 acres of wetlands, is fully mitigated with restoration of a 1.597 acre site nearby. The restoration project includes introduction of a water supply, grading, and vegetation removal resulting in a fully restored net 0.97 acre wetland site.

Policy C 2.8.1: Promote safe pedestrian access to the beach from the inland side of Pacific Coast Highway.

The street widening and infrastructure improvement project provides a new sidewalk on the east side of Newland Street between Pacific Coast Highway and the existing sidewalk just south of Hamilton Avenue where no sidewalk exists today. Currently all pedestrians are walking either within the roadway or in the unimproved dirt area on the west side of the street. The street narrows over the bridge crossing Huntington Channel and further reduces the area available for pedestrians. The new sidewalk improvements promote safe pedestrian access to the beach from the inland side of Pacific Coast Highway.

Policy C 6.1.20: Limit diking, dredging, and filling of coastal waters, wetlands, and estuaries to the specific activities outlined in Section 30233 and 30607.1 of the Coastal Act and to those activities required for the restoration, maintenance, and/or repair of the Municipal Pier and marina docks. Conduct any diking, dredging, and filling activities in a manner that is consistent with Section 30233 and 30607.1 of the Coastal Act.

Policy C 7.2.6: Prohibit fill in any wetland area for the purpose of road construction, except for roads allowed pursuant to Section 30233 of the Coastal Act or when required to serve uses allowed in wetlands pursuant to and consistent with Section 30260-30264 of the Coastal Act for coastal

dependent and energy uses. Any roads governed by this policy shall be limited to necessary access roads appurtenant to the facility, and shall be permitted only where there is no feasible, less environmentally damaging alternative and where feasible mitigation measures have been provided.

Goal C 9: Provide water, sewer, and drainage systems that are able to support permitted land uses; upgrade existing deficient systems, and pursue funding sources to reduce costs of wastewater service provision in the City.

Although the street widening and infrastructure improvement results in the loss of 0.16 acres of habitat area under the jurisdiction of California Department of Fish and Game, the 0.16 acres contains only 0.022 acres or 876 square feet of wetlands area. Coastal Act Section 30233 states that the diking, filling or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division where there is no feasible less environmentally damaging alternative and where feasible, mitigation measures have been provided to minimize adverse environmental effects. Section 30233 further states that diking, filling, or dredging shall be limited to the following and then lists numbers 1) through 8) of authorized reasons to fill.

The Newland Street Improvement project falls under number “5) Incidental public service purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.”

The project would fill a small isolated wetland for the public purpose of widening an existing roadway for public safety and improving a problematic drainage system. Filling of the ditch is necessary because there is no space to widen the street without impacting the ditch. Furthermore, the ditch currently presents a public service problem because it requires pumping to keep it from flooding. Currently, the wetlands that would be filled have minimal biological value. The ditch is isolated from other natural habitats and vegetation and, by necessity, is cleared periodically to reduce flooding and fire problems. The loss of approximately 0.02 acres of freshwater marsh habitat in the ditch and the loss of 0.002 acres of three small pickweed patches will be mitigated by the restoration of tidal flow to a portion of the Huntington Beach Wetlands in a 1.597 acre parcel at the north end of Upper Magnolia Marsh. The restored wetlands will have much greater functional value than the degraded wetlands in the isolated ditch. Therefore the proposed mitigation measure would minimize the adverse effects of filling the drainage ditch and there is no feasible less environmentally damaging alternative available.

Section 30607.1 of the Coastal Act discusses mitigation measures for filling of wetlands and states that mitigation, “...shall include, at a minimum, either acquisition of equivalent areas of equal or greater biological productivity or opening up equivalent areas to tidal action; provided, however, that if no appropriate restoration site is available, an in-lieu fee sufficient to provide an area of equivalent productive value or surface areas shall be dedicated to an appropriate public agency...”

As noted above the restoration of Upper Magnolia Marsh complies with the mitigation requirements established in Coastal Act Section 30607.1 because a gross 1.597 acre (net .97 acres) area will be opened to tidal action. The Upper Magnolia Marsh restoration project far exceeds the CDFG 1:1 mitigation requirements for the loss of 0.16 acres of habitat area.

2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The street widening and improvement project is compatible with zoning designations on the adjacent properties and will improve access to coastal resources. No above ground structures, other than street lights and pet waste bag stations are proposed in conjunction with the street improvement project. New sidewalks, landscaping, and infrastructure improvements are all consistent with surrounding zoning designations.
3. The proposed project will provide infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project includes infrastructure improvements to the street system, storm drain, and bridge over Huntington Channel. No other infrastructure improvements, other than standard maintenance, are necessary for the long-term operation of the proposed street improvement project.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed street improvement project will not result in negative impacts to public access and recreation opportunities within the Coastal Zone. Conversely, the projects results in improved access to coastal resources by improving the quality of the street, restriping bike lanes on both the east and west sides of Newland Street, improving the sight visibility over the Huntington Channel, and constructing a sidewalk on the east side of Newland Street between Pacific Coast Highway and Huntington Channel, where no sidewalk exists today.

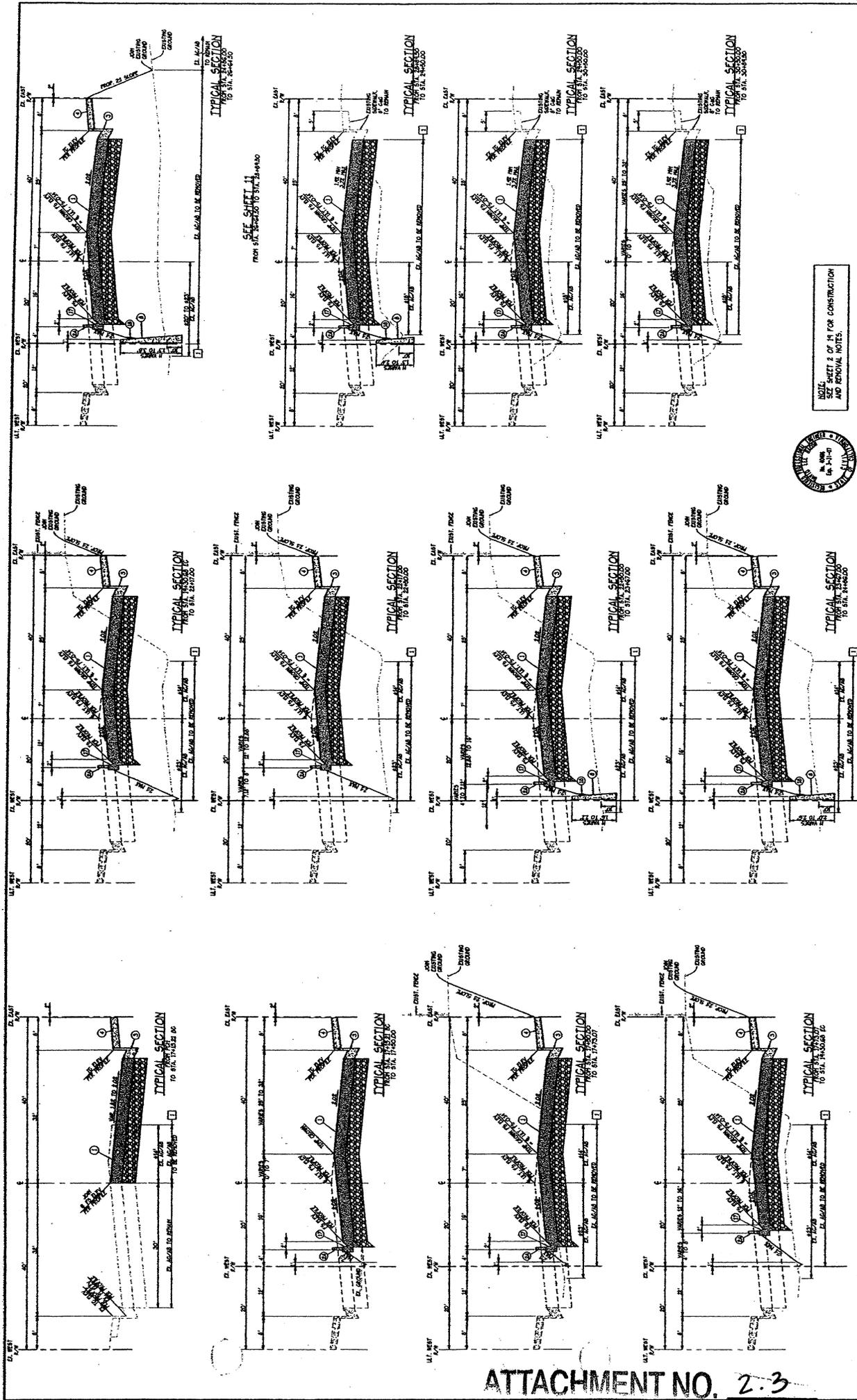
SUGGESTED CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 05-07:

1. The site plan, floor plans, and elevations received and dated January 10, 2005 shall be the conceptually approved design.
2. Prior to issuance of grading permits, the City of Huntington Beach shall enter into an agreement with the Huntington Beach Wetlands Conservancy for restoration of the Upper Magnolia Marsh, a 1.6 acre site owned by the Conservancy. The agreement shall identify the three restoration elements of water supply, grading, and vegetation removal, shall provide for full funding of the \$75,000.00 project from the City to the Conservancy, and shall obligate the Conservancy to carry out the restoration and monitoring of the project pursuant to the standards of the California Department of Fish and Game. The full \$75,000.00 shall be transferred from the City to the Conservancy prior to issuance of grading permits for the Newland Street Improvement project but the City may also obtain restoration credits and satisfy mitigation requirements for approximately 0.4 acres of wetlands anticipated to be effected by the Magnolia Street Improvement project in the future (Mitigation Measure BIO 1).
3. During construction, an inflatable dam or similar device shall be utilized on only one side of the channel at a time. Water shall be routed around the construction area and continuous water exchange up and down the channel shall be maintained. (Mitigation Measure BIO 2).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

JAN 10 2005



NOTE: SHEET 2 OF 4 FOR CONSTRUCTION AND GENERAL NOTES.



<p>Underground Service Alert Call TOLL FREE 1-800-425-4168 NO WORKING DAYS BEFORE IT</p>		<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>BY</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	BY	DESCRIPTION																	<p>DESIGNED BY: [Signature]</p> <p>CHECKED BY: [Signature]</p> <p>DATE: 10/20/03</p> <p>BY: [Signature]</p> <p>DATE: 10/20/03</p> <p>BY: [Signature]</p> <p>DATE: 10/20/03</p> <p>BY: [Signature]</p> <p>DATE: 10/20/03</p>	<p>PREPARED UNDER THE SUPERVISION OF:</p> <p>DAVID L. BACON</p> <p>DATE: []</p> <p>APPROVED BY:</p> <p>DATE: []</p> <p>BY: [Signature]</p> <p>DATE: []</p> <p>BY: [Signature]</p> <p>DATE: []</p>	<p>W. ALLEN & ASSOCIATES CIVIL ENGINEERS 10000 WEST 156TH STREET HUNTINGTON BEACH, CA 92644 TEL: 714/363-1111 FAX: 714/363-1112</p>	<p>PROJECT NO. 03-0001</p> <p>CONTRACT NO. 03-0001</p> <p>SECTION NO. 19</p>	<p>NEWLAND STREET IMPROVEMENT PLAN NEWLAND STREET SECTIONS FROM PACIFIC COAST HIGHWAY TO HAMILTON AVENUE CC-0096 HUNTINGTON BEACH</p>	<p>SHEET NO. 3 OF 19</p> <p>JAN 10 2005</p>
NO.	DATE	BY	DESCRIPTION																									

JUL 05 2006

City of Huntington Beach

Newland Avenue Widening & Storm Drain

Summary:

The City of Huntington Beach is currently finalizing the design for a project that will widen Newland Street from Pacific Coast Highway to Hamilton Avenue.

Newland Street right-of-way is 80' wide from the intersection of Pacific Coast Highway to approximately 700' north of the intersection, where the Right of Way changes to 40' East of centerline and 20' west of Centerline. This section of Newland Street is a popular path used by pedestrians and bicyclists to access the beach. Currently there is only a single lane of travel in each direction with no sidewalk or bike lane for a majority of the distance within the project area.

Additionally, a significant grade differential exists where Newland Street crosses the Huntington channel. This grade differential creates a significant stopping sight distance deficiency at the intersection of Newland Street and Edison Way, as cars traveling south on Newland Street do not have sufficient time to react if another car has stopped to make a left hand turn onto Edison Way.

The City's objective is to widen Newland Street, from Pacific Coast Highway to Hamilton Avenue, from the current width to a 44' - 48' wide traveled way section, with bike lanes, a sidewalk and center striped median. The proposed widening will also address stopping sight distance deficiency, by raising the road grade at the Huntington Channel and providing a left turn lane at the intersection of Newland and Edison Way. As part of the widening, 2 existing streetlights will be relocated, and 3 additional streetlights, similar to those existing, will be installed along the east side of Newland, per City of Huntington Beach standards.

It is anticipated that construction will occur in the Fall of 2006, and take approximately 6 to 8 months to complete.

The proposed widening improvements will impact the existing drainage along Newland St., requiring an unimproved drainage ditch to the east of the roadway to be replaced. The drainage ditch has had a history of problems, as there is no natural outlet for this ditch.

In previous years, the City had a pump system set up at the downstream end of the ditch to automatically turn on and pump the stormwater from the ditch, through a force main, to a culvert located at the intersection of Newland Street and Pacific Coast Highway. A few years ago, when there was concern over high bacteria levels within the coastal waters, the city removed the automated pump system during the dry season, to eliminate the ditch as a possible source of bacteria. The City would set up a temporary pump system during storm events to keep the ditch from flooding Newland Street.

It is proposed to replace the existing unimproved drainage ditch with a 39"RCP storm drain & associated catch basins. This will eliminate the need for a pump/force main to provide the drainage for Newland Street from the Huntington Channel to Pacific Coast Highway. In addition, the City will be installing a sewer line stub connecting into the OCSD Trunk Main in Newland Street, at the

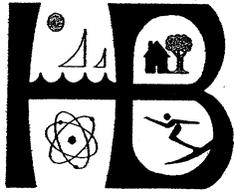
intersection of Newland & Edison for a future relocation of the existing sewer line serving the properties along Edison Way into the existing right-of-way.

A Reinforced Concrete Box (RCB) acts as a bridge where Newland Street crosses the Huntington Channel. In order to accommodate the road widening, the ends of this box must be lengthened within the channel, requiring the removal of the headwalls on the upstream and downstream ends, and forming and pouring of extensions to the ends of the RCB.

The county recently completed a significant capacity expansion of the Huntington channel, by driving sheet piles along the banks and removing fill, converting the channel from an earthen walled trapezoidal channel to a rectangular steel walled channel. The County stopped their sheet piling approximately 20' short of the Newland Street Bridge on both the upstream and downstream sides, in order to accommodate for the City's widening of the bridge. In order to provide interim protection of the existing bridge against erosion, the County placed Rip Rap to prevent scouring around the headwall of the RCB. As part of this project, the City will remove the rip-rap material placed within the channel during the County's recent work on the Huntington Channel, and clean out any sediment that accumulate within the existing RCB cells.

As part of the bridge widening within the Huntington Channel several existing utilities hung on the side of the existing RCB shall be relocated to pass underneath the expanded portion of the RCB. These utilities include a privately owned fuel line, and a City owned 12" water main. In addition the City will be installing a 36" steel sleeve underneath the upstream section of the lengthened RCB to minimize the impact to the channel for a future Water Transmission main.

Work within the channel will require the use of an excavator to remove the existing rip-rap material and to clear a portion of the channel floor to form the RCB extensions. Temporary dams or some other method of isolating the RCB from the channel flow will also be required to facilitate the construction of the lengthened sections. The method used will be at the contractors discretion, but could include the use of inflatable dams.



CITY OF HUNTINGTON BEACH
Planning Commission Communication

TO: Scott Hess, Acting Director of Planning

FROM: Flossie Horgan, Planning Commissioner *FH*

DATE: March 7, 2007

**SUBJECT: APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF
NEGATIVE DECLARATION NO. 05-05 AND COASTAL
DEVELOPMENT PERMIT NO. 05-07 (NEWLAND STREET
IMPROVEMENT PROJECT)**

City of Huntington Beach
MAR - 7 2007

I hereby appeal the Zoning Administrator's approval of Negative Declaration No. 05-05 and Coastal Development Permit No. 05-07 for the Newland Street Improvement Project based on the following:

I have concerns regarding the wetlands impacts and the water quality issues. Some provisions of the Huntington Beach certified LCP are not being followed, and water quality impacts from the urban runoff to the ocean are not being adequately addressed.

I have attached further discussion of my concerns.

JJ: cs

xc: Herb Fauland, Acting Planning Manager
Mary Beth Broeren, Principal Planner

ATTACHMENT NO. 4.1

March 7, 2007

TO: Scott Hess, Acting Planning Director

FROM Flossie Horgan

Re: Appeal from Zoning Administrator's Decision

Wednesday February 21, 2007

Petition Document: Negative Declaration No. 2005-005/Coastal Development Permit No 2005-007 (Newland Street Improvements)

Approved with Findings and Modified Conditions of Approval

I would like to appeal the above referenced decision to approve the Newland Street Improvements project to the Planning Commission for further consideration..

My concerns relate primarily to wetlands impacts and water quality concerns. I have concerns that provisions of the Huntington Beach certified LCP are not being followed, and that water quality impacts from urban runoff to the ocean are not being adequately addressed.

WETLANDS

According to the Natural Resources Chapter of the Coastal Element of the City of Huntington Beach General Plan (2001), a component of the City's Certified LCP, page IV-C-98, paragraph 47:

"Wetlands provide biological and aesthetic resources. These qualities should be maintained, enhanced and improved, where feasible (C 6.1.24, C 6.1.26, C 6.1.28, C 7.1.2, C 7.1.3, C 7.2.1, C 7.2.2, C 7.2.3 and C 7.2.4)"

Also, coastal wetlands are protected by C 6.1.20, page IV-C-120, which states in part: "Limit diking, dredging and filling of coastal waters, wetlands, and estuaries to the specific activities outlined in Section 30233 and 30607.1 of the Coastal ActConduct any diking, dredging and filling activities in a manner that is consistent with section 30233 and 30607.1 of the Coastal Act (I-C 2, I-C-7, I-C-8).

However, there is no discussion or determination that the wetlands that would be impacted and filled by the Newland Street Improvement Project have met the requirements of Section 30233 of the Coastal Act, namely, are road widening and road improvements permitted under Section 30233 of the Coastal Act? Road widening does not appear to be one of the permitted uses under Section 30233 of the Coastal Act.

The Errata to Draft Mitigated Negative Declaration No. 05-05, page 13 of the Response to Comments for Draft Mitigated Negative Declaration No. 05-06, states that there is tidal habitat within the Huntington Beach Channel under the jurisdiction of the CDFG that would be impacted by the project, consisting of 0.07 acres. Included within this tidal habitat are .002 acres of pickleweed patches that do not require mitigation, according to the MND, but would be required to be considered under Section 30233. Also, there are 0.09 acres of freshwater marsh in the ditch adjacent to Newland within CDFG jurisdiction, for a total of 1.6 acres of wetlands impacted by the project under Section 30233. The report proposes to mitigate this loss at a 1:1 ratio.

However, the standard for review of wetlands issues and mitigation should fall under the Coastal Commission policies on wetlands and mitigation policies incorporated within Sections 30233 and 30607.1 of the Coastal Act, since these wetlands are in the coastal zone, and these sections are incorporated into the city's certified LCP.

See I-C 8, Environmental Review, C) 1. and 2., page IV-C-134 of the 2001 HB General Plan Natural Resources Chapter Coastal Element, which states: "Determine the necessity for mitigation Agreements or other coordination with the California Department of Fish and Game, California Coastal commission and/or federal agencies to obtain necessary permits for development that appear to affect habitat"

There is no evidence that the Coastal Commission staff was consulted concerning the mitigation agreement for this project. Typically, the Coastal Commission requires a 3:1 ratio for offsite mitigation, if the project is consistent with Section 30233 of the Coastal Act. Applying that ratio to this project is 3 times 0.16 acres equals 0.48 acres of mitigation.

However, the project proposes to restore the "Upper Magnolia Marsh" in a mitigation proposal that combines the Newland Street Improvement project with a proposed future Magnolia Street project that might impact approximately 0.4 acres of wetlands along Magnolia Street. The total acreage of restoration is 0.97 acres. The total acreage of both projects' wetlands impacts is 0.16 plus 0.4 acres equals 0.56 acres. A 3 to 1 ratio is thus 1.68 acres for both projects (3 times 0.56). Thus, there is a shortage of 0.71 acres of mitigation for both projects, if it is permissible to combine both projects at this time.

I have a question and concerns about future mitigation obligations and if such an arrangement to pre-mitigate a project such as the future Magnolia Street project is permissible under the LCP. I believe the Planning Commission, City Council, and Coastal Commission should review this agreement, if the project is found to be compatible with Section 30233 of the Coastal Act.

Moreover, the type of mitigation, being a salt-marsh restoration project is out-of-kind with the project's wetland impacts, which are fresh water impacts for .09 acres of the total 0.16 CDFG wetland acreage impacted by the project. This out-of-kind mitigation would be a further argument for increasing the mitigation ratio from 1:1 to 3:1.

WATER QUALITY

My other concern about the project involves the water quality impacts, as expressed by the commentators to the Draft Mitigated Negative Declaration, including the California Regional Water Quality Board, (CRWQCB), Coastkeeper, and Dr. Jan Vandersloot.

See page 7 of the Response to Comments, where the CRWQB expresses concern "that the proposed new storm drain will continue to convey dry and wet weather flows and their associated pathogenic bacteria loading to the ocean, via the AES outfall. It is already established that discharges from the storm drain via the AES outfall contributed to the elevated levels of pathogenic bacteria that have caused violations of beach water quality standards at Huntington State Beach. Pet waste along Newland St. has been identified as the most prominent source of these bacteria, and no management measures or Best Management Practices (BMP) have been implanted to control or eliminate that source."

The City proposes a gross pollutant separator device called a Continuous Deflector Separator or CDS unit just upstream of the existing catch basin at Pacific Coast Highway and Newland Street. However, this unit does not capture any bacteria or viruses in the runoff, as it only picks up trash in the runoff (see page 8 of the Response to Comments document).

The City states it is "currently working with the OCSD to address the possibility of a low flow diversion of runoff into the OCSD's existing 48" Trunk Sewer in Newland Street", but this is only a possibility and I think the project should be conditioned by the Planning Commission to ensure diversion of runoff into the sewer system.

The CRWQB also stated in its comment CRWQCB-5 that "The MND should address these issues and identify appropriate management alternatives. We believe that dry-weather runoff could be diverted into the Pacific Coast Highway trunk sewer (under Orange County Sanitation District jurisdiction) and eliminated as a potential source of the cause of violations."

The CRWQCB also stated in its CRWQB-6 that "We strongly recommend that the matter of continued discharges from City facilities via the AES ocean outfall should be carefully evaluated and that this project appears to provide a "ripe opportunity" to address the understandable concerns of AES regarding their responsibility for discharges originating off-site."

The CWRQB also stated in its CRWQCB-7 that "We believe the above issues may be better examined in a comprehensive Environmental impact Report" (see page 9 of the Response to Comments)

The Response to Comments to the CRWQB-6 and CRWQCB-7 comments both deferred the issue to the Zoning Administrator for consideration, but it does not appear that the Zoning Administrator took any actions relative to these concerns. Therefore, I believe the Planning Commission and possibly the City Council should address these important comments, since the Zoning Administrator did not.

The Water and Marine Resources section of the Natural Resources Chapter Coastal Element of the City of Huntington Beach General Plan, 2001, page IV-C-116, also has the goals of preventing degradation of marine resources in the coastal zone (Goal C6, Policies C 6.1.1, C 6.1.15, C 6.1.16, which encourages the Orange County sanitation district to accept dry weather nuisance flows into the sewer system for treatment prior to discharge (IC-12).

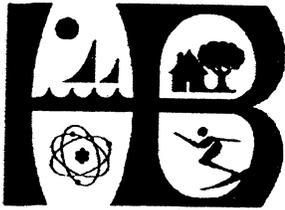
For all the above reasons, I request that the project be appealed to the Planning Commission.

ATTACHMENT NO. 5

RESPONSE TO COMMENTS AND ERRATA FOR DRAFT
MITIGATED NEGATIVE DECLARATION NO. 05-05
AND
ENVIRONMENTAL ASSESSMENT NO. 05-05

AVAILABLE FOR REVIEW AT:

CITY OF HUNTINGTON BEACH
PLANNING DEPARTMENT
CITY HALL
THIRD FLOOR
2000 MAIN STREET
HUNTINGTON BEACH, CA 92648



**OFFICE of the ZONING ADMINISTRATOR
CITY OF HUNTINGTON BEACH • CALIFORNIA**

P.O. BOX 190

CALIFORNIA 92648

(714) 536-5271

NOTICE OF ACTION

February 22, 2007

City of Huntington Beach Public Works Department
Douglas A. Erdman, PE, Associate Civil Engineer
2000 Main Street
Huntington Beach, CA 92648

SUBJECT: **NEGATIVE DECLARATION NO. 2005-005/COASTAL
DEVELOPMENT PERMIT NO. 2005-007 (NEWLAND STREET
IMPROVEMENTS)**

APPLICANT: City of Huntington Beach Public Works Department

REQUEST: To permit the widening and improvement of Newland Street from Pacific Coast Highway to Hamilton Avenue, including widening the reinforced concrete bridge at Huntington Channel, installation of storm drain improvements, and raising the profile of Newland Street to improve traffic visibility

LOCATION: Newland Street, between Pacific Coast Highway and Hamilton Avenue

PROJECT PLANNER: Jane James

DATE OF ACTION: February 21, 2007

On Wednesday, February 21, 2007 the Huntington Beach Zoning Administrator took action on your application, and your application was **conditionally approved**. Attached to this letter are the findings and conditions of approval.

Please be advised that the Zoning Administrator reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator is final unless an appeal is filed to the Planning Commission by the applicant or an aggrieved party. Said appeal must be in writing and must set forth in

ATTACHMENT NO. 6.1

detail the actions and grounds by and upon which the applicant or interested party deems himself aggrieved. Said appeal must be accompanied by a filing fee of One Thousand Two Hundred Eighty-Seven Dollars (\$1287.00) if the appeal is filed by a single family dwelling property owner appealing the decision on his own property and One Thousand Five Hundred Sixty-Nine Dollars (\$1569.00) if the appeal is filed by any other party. The appeal shall be submitted to the Department of Planning within ten (10) working days of the date of the Zoning Administrator's action. There is no fee for the appeal of a Coastal Development Permit to the California Coastal Commission.

In your case, the last day for filing an appeal is March 7, 2007.

This project is in the Appealable portion of the coastal zone. Action taken by the Zoning Administrator may not be appealed directly to the Coastal Commission unless Title 14, Section 13573 of the California Administrative Code is applicable. Section 13573(a)(3) states that an appeal may be filed directly with the Coastal Commission if the appellant was denied the right of local appeal because local notice and hearing procedures for the development did not comply with the provisions of this article. The other three grounds for direct appeal do not apply. If the above condition exists, an aggrieved person may file an appeal within ten (10) working days, pursuant to Section 30603 of the Public Resources Code, in writing to:

South Coast Area Office
California Coastal Commission
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
Attn: Theresa Henry
(562) 590-5071

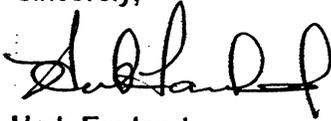
The Coastal Commission review period will commence after the City appeal period has ended and no appeals have been filed. Applicants will be notified by the Coastal Commission as to the date of the conclusion of the Coastal Commission review. Applicants are advised not to begin construction prior to that date.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

Excepting those actions commenced pursuant the California Environmental Quality Act, you are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact the project planner at (714) 536-5596 (email: jjames@surfcity-hb.org) or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,



Herb Fauland
Acting Zoning Administrator

HF:JJ:jc
Attachment

- c: Honorable Mayor and City Council
Chair and Planning Commission
Penelope Culbreth-Graft, City Administrator
Paul Emery, Deputy City Administrator
Scott Hess, Acting Director of Planning
Herb Fauland, Acting Planning Manager
Eric Engberg, Division Chief/Fire Marshal
Terri Elliott, Principal Civil Engineer
Gerald Caraig, Permit-Plan Check Manager
Property Owner
Project File

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

NEGATIVE DECLARATION NO. 2005-005/

COASTAL DEVELOPMENT PERMIT NO. 2005-007

FINDINGS FOR APPROVAL – NEGATIVE DECLARATION NO. 2005-005:

1. The Negative Declaration No. 2005-005 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Zoning Administrator prior to action on the Negative Declaration and Coastal Development Permit No. 2005-007. As a result of comments received an Errata to Negative Declaration No. 2005-005 was prepared and considered by the Zoning Administrator prior to action on the subject entitlement.
2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. The proposed street improvement project will impact 0.16 acres of wetlands by construction of improvements in the Huntington Channel and by eliminating a drainage ditch on the east side of Newland Street. Loss of this wetland acreage will be fully mitigated through an agreement and payment of funds to the Wetlands and Wildlife Conservancy to restore an existing 1.597 acre site with water supply, grading, and vegetation removal resulting in a total 0.97 acre restored wetland area.
3. There is no substantial evidence in light of the whole record before the Zoning Administrator that the project, as mitigated through the conditions of approval for CDP NO. 2005-007, will have a significant effect on the environment.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2005-007:

1. Coastal Development Permit No. 2006-007 for the improvements to Newland Street between Pacific Coast Highway and Hamilton Avenue, including widening the reinforced concrete bridge at Huntington Channel, installation of storm drain improvements, and raising the profile of Newland Street to improve traffic visibility, conforms with the General Plan, including the Local Coastal Program.
2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The street widening and improvement project is compatible with zoning designations on the adjacent properties. No above ground structures, other than street lights and pet waste bag stations are proposed in conjunction with the street improvement project. New sidewalks, landscaping, and infrastructure improvements are all consistent with surrounding zoning designations.

3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project includes infrastructure improvements to the street system, storm drain, and bridge over Huntington Channel. No other infrastructure improvements, other than standard maintenance, are necessary for the long-term operation of the proposed street improvement project.
4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed street improvement project will not result in negative impacts to public access and recreation opportunities within the Coastal Zone. Conversely, the projects results in improved access to coastal resources by improving the quality of the street, restriping bike lanes on both the east and west sides of Newland Street, improving the sight visibility over the Huntington Channel, and constructing a sidewalk on the east side of Newland Street between Pacific Coast Highway and Huntington Channel, where no sidewalk exists today.

CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2005-007:

1. The site plan, floor plans, and elevations received and dated March 11, 2006 shall be the conceptually approved design.
2. Prior to issuance of grading permits, the City of Huntington Beach shall enter into an agreement with the Huntington Beach Wetlands Conservancy for restoration of the Upper Magnolia Marsh, a 1.6 acre site owned by the Conservancy. The agreement shall identify the three restoration elements of water supply, grading, and vegetation removal, shall provide for full funding of the \$70,835.00 project from the City to the Conservancy, and shall obligate the Conservancy to carry out the restoration and monitoring of the project pursuant to the standards of the California Department of Fish and Game. The full \$70,835.00 shall be transferred from the City to the Conservancy prior to issuance of grading permits for the Newland Street Improvement project but the City may also obtain restoration credits and satisfy mitigation requirements for approximately 0.4 acres of wetlands anticipated to be effected by the Magnolia Street Improvement project in the future (Mitigation Measure BIO 1).
3. During construction, an inflatable dam or similar device shall be utilized on only one side of the channel at a time. Water shall be routed around the construction area and continuous water exchange up and down the channel shall be maintained. (Mitigation Measure BIO 2).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

MINUTES
HUNTINGTON BEACH OFFICE OF THE ZONING ADMINISTRATOR
Room B-8 - Civic Center
2000 Main Street
Huntington Beach California

WEDNESDAY, FEBRUARY 21, 2007 - 1:30 P.M.

ZONING ADMINISTRATOR: Herb Fauland, Acting Zoning Administrator

STAFF MEMBER: Jane James, Jeanie Cutler (recording secretary)

MINUTES: **NONE**

ORAL COMMUNICATION: **NONE**

ITEM 1: NEGATIVE DECLARATION NO. 2005-005/COASTAL DEVELOPMENT PERMIT NO. 2005-007 (NEWLAND STREET IMPROVEMENTS):

**APPLICANT/
PROPERTY OWNER:** City of Huntington Beach Public Works Department, Douglas A. Erdman, PE, Associate Civil Engineer

REQUEST: To permit the widening and improvement of Newland Street from Pacific Coast Highway to Hamilton Avenue, including widening the reinforced concrete bridge at Huntington Channel, installation of storm drain improvements, and raising the profile of Newland Street to improve traffic visibility.

LOCATION: Newland Street, between Pacific Coast Highway and Hamilton Avenue

PROJECT PLANNER: Jane James

Jane James, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary, emphasizing the improvements and mitigation measures recommended by the Environmental Assessment Committee.

Staff stated that five comment letters had been received with concerns including keeping the mitigation local, addressing storm drainage and bacteria issues. Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions as presented in the executive summary

Herb Fauland, Acting Zoning Administrator, stated he had driven by the site and is very aware of the safety and traffic issues related to the bridge. Mr. Fauland stated he had reviewed the documentation including the Mitigated Negative Declaration, the Errata and staff's response to

the five comment letters and the change to mitigation measure, and had also met with staff to go over the technical issues.

THE PUBLIC HEARING WAS OPENED.

Douglas Erdman, Department of Public Works (PW) Associate Civil Engineer, confirmed he had reviewed the suggested conditions of approval and mitigation measures and found them to be acceptable.

Robert London Moore, Mills Land & Water Company, had several questions concerning the location of the improvements, possible flooding due to removal of the drainage ditch and the timeframe for the project.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Todd Broussard, Department of Public Works, Principal Civil Engineer, addressed Mr. Moore's questions stating that the existing Newland Street has culverts that cross and connect the existing unapproved drainage ditch to the west side of Newland, and those culverts will be replaced along with the storm drains which will address the drainage issue along the westerly side. Installation of the new storm drain and gravity flow system would address the flooding issue.

Mr. Broussard stated that the City has not obtained right-of-way on the west side of Newland, north and south of the bridge over Huntington Channel.

Mr. Broussard stated that they (PW) anticipated going out to bid on the project in the spring of 2007 for a construction period of approximately one year.

Mr. Moore asked if there were any plans to acquire the right-of-way on the west side and Mr. Broussard stated that several years ago they (PW) had attempted to obtain the right-of-way but were unable to come to a mutual agreement.

Mr. Fauland stated that staff answered technical numerical questions with regards to wetland areas. Mr. Fauland concurred with the change in mitigation measure and agreed that the mitigation be within the City limits, within close proximity to the project.

Mr. Fauland noted that condition No.3, which is mitigation measure BIO 2 identified on page 17 of the Draft Mitigated Negative Declaration, will be included in the conditions of approval.

Mr. Fauland stated he had reviewed all the documentation and believes the Response to Comments and revision to mitigation measures are consistent with City and State requirements for mitigation of such improvements and concurs with those recommendations. Mr. Fauland stated he has reviewed the suggested findings for approval for both the Draft Mitigated Negative Declaration and the Coastal Development Permit and finds them to be sufficient for this project, and based upon all the documents presented; the Errata and Response to Comments to the Draft Mitigated Negative Declaration with the revisions along with the inclusion of the second mitigation measure, Mr. Fauland stated that he was going to approve the requested Negative Declaration and Coastal Development Permit.

NEGATIVE DECLARATION NO. 2005-005/COASTAL DEVELOPMENT PERMIT NO. 2005-007 WAS APPROVED BY THE ACTING ZONING ADMINISTRATOR WITH THE FOLLOWING FINDINGS AND MODIFIED CONDITIONS OF APPROVAL. THE ACTING ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) WORKING DAYS.

FINDINGS FOR APPROVAL – NEGATIVE DECLARATION NO. 2005-005:

1. The Negative Declaration No. 2005-005 has been prepared in compliance with Article 6 of the California Environmental Quality Act (CEQA) Guidelines. It was advertised and available for a public comment period of thirty (30) days. Comments received during the comment period were considered by the Zoning Administrator prior to action on the Negative Declaration and Coastal Development Permit No. 2005-007. As a result of comments received an Errata to Negative Declaration No. 2005-005 was prepared and considered by the Zoning Administrator prior to action on the subject entitlement.
2. Mitigation measures, incorporated into the attached conditions of approval, avoid or reduce the project's effects to a point where clearly no significant effect on the environment will occur. The proposed street improvement project will impact 0.16 acres of wetlands by construction of improvements in the Huntington Channel and by eliminating a drainage ditch on the east side of Newland Street. Loss of this wetland acreage will be fully mitigated through an agreement and payment of funds to the Wetlands and Wildlife Conservancy to restore an existing 1.597 acre site with water supply, grading, and vegetation removal resulting in a total 0.97 acre restored wetland area.
3. There is no substantial evidence in light of the whole record before the Zoning Administrator that the project, as mitigated through the conditions of approval for CDP NO. 2005-007, will have a significant effect on the environment.

FINDINGS FOR APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2005-007:

1. Coastal Development Permit No. 2006-007 for the improvements to Newland Street between Pacific Coast Highway and Hamilton Avenue, including widening the reinforced concrete bridge at Huntington Channel, installation of storm drain improvements, and raising the profile of Newland Street to improve traffic visibility, conforms with the General Plan, including the Local Coastal Program.
2. The project is consistent with the requirements of the CZ Overlay District, the base zoning district, as well as other applicable provisions of the Municipal Code. The street widening and improvement project is compatible with zoning designations on the adjacent properties. No above ground structures, other than street lights and pet waste bag stations are proposed in conjunction with the street improvement project. New sidewalks, landscaping, and infrastructure improvements are all consistent with surrounding zoning designations.
3. At the time of occupancy the proposed development can be provided with infrastructure in a manner that is consistent with the Local Coastal Program. The proposed project includes

infrastructure improvements to the street system, storm drain, and bridge over Huntington Channel. No other infrastructure improvements, other than standard maintenance, are necessary for the long-term operation of the proposed street improvement project.

4. The development conforms with the public access and public recreation policies of Chapter 3 of the California Coastal Act. The proposed street improvement project will not result in negative impacts to public access and recreation opportunities within the Coastal Zone. Conversely, the projects results in improved access to coastal resources by improving the quality of the street, restriping bike lanes on both the east and west sides of Newland Street, improving the sight visibility over the Huntington Channel, and constructing a sidewalk on the east side of Newland Street between Pacific Coast Highway and Huntington Channel, where no sidewalk exists today.

CONDITIONS OF APPROVAL - COASTAL DEVELOPMENT PERMIT NO. 2005-007:

1. The site plan, floor plans, and elevations received and dated March 11, 2006 shall be the conceptually approved design.
2. Prior to issuance of grading permits, the City of Huntington Beach shall enter into an agreement with the Huntington Beach Wetlands Conservancy for restoration of the Upper Magnolia Marsh, a 1.6 acre site owned by the Conservancy. The agreement shall identify the three restoration elements of water supply, grading, and vegetation removal, shall provide for full funding of the \$70,835.00 project from the City to the Conservancy, and shall obligate the Conservancy to carry out the restoration and monitoring of the project pursuant to the standards of the California Department of Fish and Game. The full \$70,835.00 shall be transferred from the City to the Conservancy prior to issuance of grading permits for the Newland Street Improvement project but the City may also obtain restoration credits and satisfy mitigation requirements for approximately 0.4 acres of wetlands anticipated to be effected by the Magnolia Street Improvement project in the future (Mitigation Measure BIO 1).
3. During construction, an inflatable dam or similar device shall be utilized on only one side of the channel at a time. Water shall be routed around the construction area and continuous water exchange up and down the channel shall be maintained. (Mitigation Measure BIO 2).

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

THE MEETING WAS ADJOURNED AT 2:10PM BY THE ACTING ZONING ADMINISTRATOR
TO THE NEXT REGULARLY SCHEDULED MEETING OF THE ZONING ADMINISTRATOR
ON WEDNESDAY, FEBRUARY 28, 2007 AT 1:30 PM.



Herb Fauland
Acting Zoning Administrator

:jc

March 21,2007

To: Janet James
City of HB Planning Department
2000 Main Street
HB,CA 92648

From: John Carter
21141 Banff Lane
HB, CA 92646

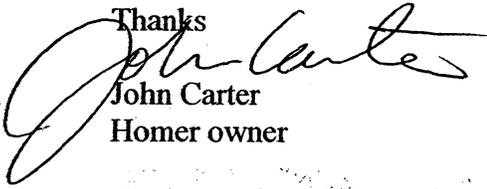
Dear Janet,

I would like to support the City of Huntington Beach with the planned widening of **NEWLAND STREET** from Doncaster to PC H on both sides. I live in the area and we need this improvement for **SAFTEY**. We currently have a **VERY POOR** road which is a **HAZARD** to bikes and individuals walking to the beach. We need as many improvements that we can get such as widening, side walks and improved sight lines over the bridge. The road also **FLOODS** in any amount of rain which makes for dangerous driving since most automobiles go around the puddles by crossing the **YELLOW DOUBLE LINES**, which is unsafe.

I ask anyone from the **CITY COUNCIL OR PLANNING COMMISSION** to drive down this street and they will see how unsafe this road is right now. We have had a lot of accidents and one car hit the telephone pole next to the poorly designed drainage ditch. This ditch does **NOTHING** but drain water onto the **STREET** which creates **LARGE AMOUNTS** of flooding on the other side. The City has to but flood signs up whenever we have threats of rain, this is not the sign of a well designed street.

Please address this issue with a new street that is safe for all who use it: bikes, cars and individuals all trying to get to the beautiful beach and the end of the street.

Thanks


John Carter
Homer owner

City of Huntington Beach
MAR 22 2007

ATTACHMENT NO. 8



City of Huntington Beach Planning Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, Director of Planning
BY: Tess Nguyen, Associate Planner *TN*
DATE: April 24, 2007

SUBJECT: **ENTITLEMENT PLAN AMENDMENT NO. 06-07 (LOWE'S RETAIL PAD SITE MODIFICATION – AMENDMENT TO CONDITIONAL USE PERMIT NO. 00-31)**

APPLICANT: Mark Raber, Tarlos & Associates, 17802 Mitchell North, Irvine CA 92614

PROPERTY OWNER: Ocean View School District, 17200 Pinehurst Lane, Huntington Beach CA 92647

LOCATION: 8291 Warner Avenue (north side of Warner Avenue, east of Beach Boulevard)

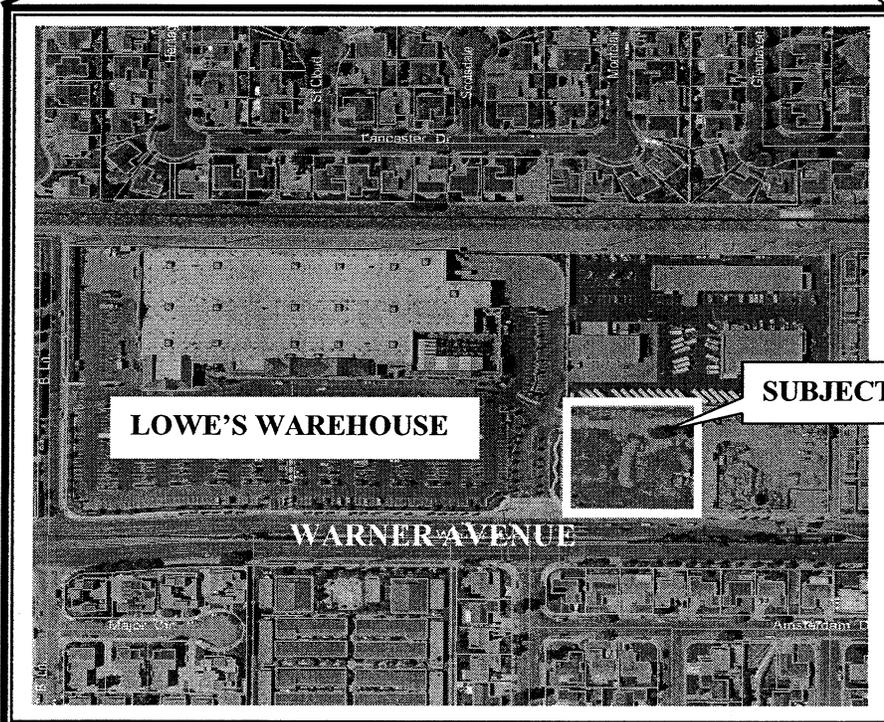
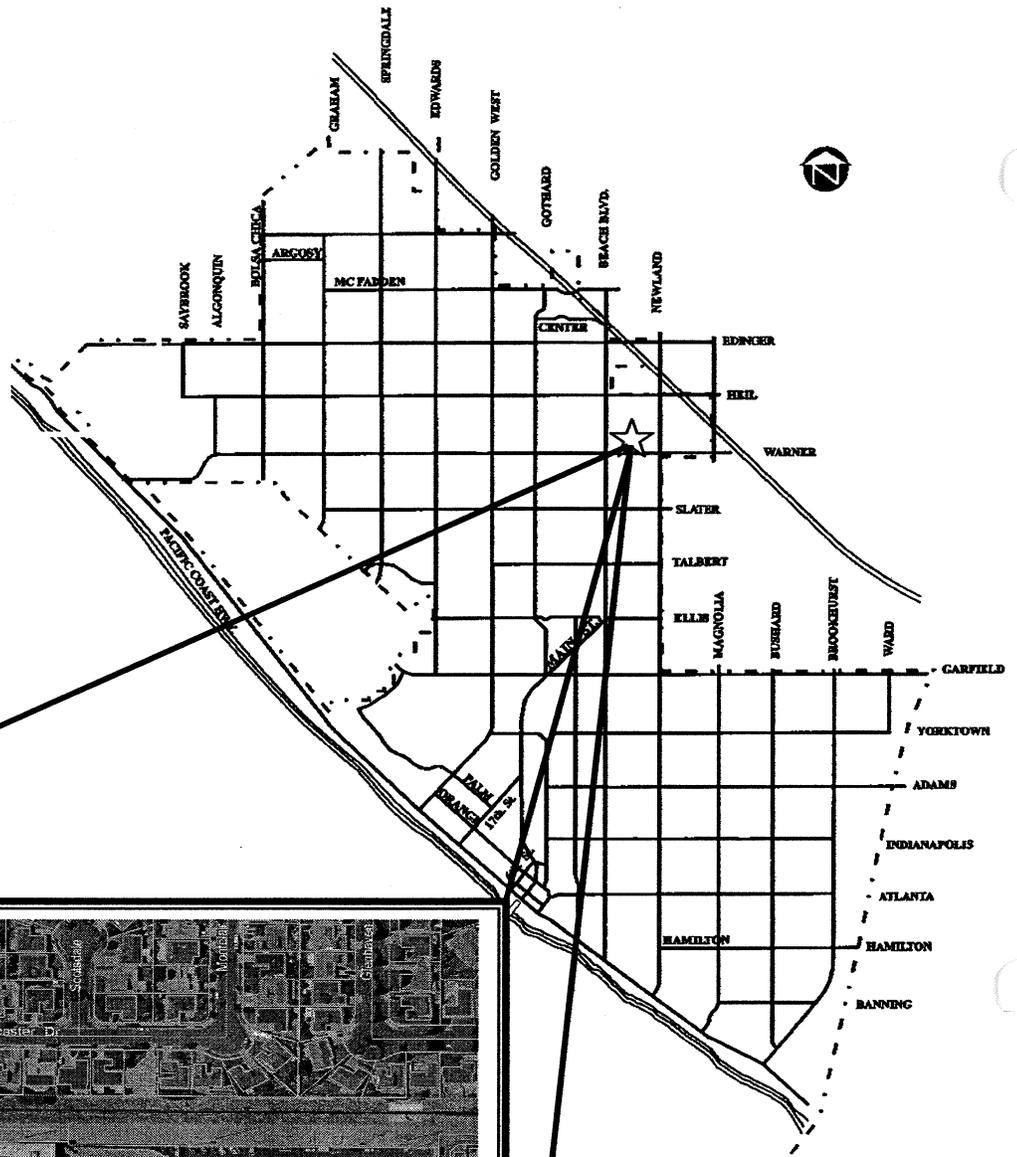
STATEMENT OF ISSUE:

- ◆ Entitlement Plan Amendment No. 06-07 request:
 - To amend Condition of Approval No. 8 of Conditional Use Permit No. 00-31 which limits development on the vacant parcel adjacent to Lowe's Home Improvement Warehouse to a restaurant building with a maximum of 8,500 sq. ft.
 - The proposed amendment is to allow a maximum building area of 14,200 sq. ft. on the vacant parcel. The developer for the site is pursuing two development options at the same time:
 - Option 1: Develop the site with America's Tires (6,400 sq. ft.) and Wendy's or a similar fast food restaurant (3,212 sq. ft.). The total building square footage would be 9,612 sq. ft.
 - Option 2: Develop the site with America's Tires (6,400 sq. ft.) and a retail building (7,800 sq. ft.). The total building square footage would be 14,200 sq. ft.

- ◆ Staff's Recommendation:

Approve Entitlement Plan Amendment No. 06-07, based on the following:

 - The proposed project will not be detrimental to the general welfare of persons working or residing in the vicinity nor detrimental to the value of the property or improvements in the neighborhood because it has been evaluated for compatibility in terms of uses, noise, and traffic generation.
 - The proposed project will help the City to achieve its goal of enhancing the community image through the design and construction of a high-quality development.
 - The proposed amendment will promote the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, and serve visitors to the City.
 - The proposed amendment will enhance the economic viability of the City by increasing potential taxable sales and providing additional revenues to the City.



VICINITY MAP

**Entitlement Plan Amendment No. 06-07
 Lowe's Retail Pad Site Modification – 8291 Warner Avenue
 CITY OF HUNTINGTON BEACH**

RECOMMENDATION:

Motion to:

“Approve Entitlement Plan Amendment No. 06-07 with findings and suggested conditions of approval (Attachment No. 1).”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Deny Entitlement Plan Amendment No. 06-07 with findings for denial.”
- B. “Continue Entitlement Plan Amendment No. 06-07 and direct staff accordingly.”

PROJECT PROPOSAL:

Entitlement Plan Amendment No. 06-07 represents a request to amend Condition of Approval No. 8 of Conditional Use Permit No. 00-31 which limits development on the vacant parcel adjacent to Lowe’s Home Improvement Warehouse to a restaurant building with a maximum of 8,500 sq. ft. pursuant to Section 241.18 (Changed Plans) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO).

Condition of Approval No. 8 states:

Depending on the uses proposed, the restaurant pad and Parcel 3 may be subject to separate entitlement prior to issuance of grading permits for the pad site. Construction of the restaurant pad building shall not result in any loss of landscaping as shown on the September 5, 2003 site plan and a maximum 8,500 square foot building shall be constructed.

The proposed amendment is to allow a maximum building area of 14,200 sq. ft. on the vacant parcel. The developer for the site is pursuing two development options at the same time:

- Option 1: Develop the site with America’s Tires (6,400 sq. ft.) and Wendy’s or a similar fast food restaurant (3,212 sq. ft.). The total building square footage would be 9,612 sq. ft.
- Option 2: Develop the site with America’s Tires (6,400 sq. ft.) and a retail building (7,800 sq. ft.). The total building square footage would be 14,200 sq. ft.

The original tenant for the site (the stand alone restaurant) withdrew from the project and the developer (Hughes Investments) secured a new agreement with Wendy’s Restaurants for a new fast food restaurant on the west side of the site and with America’s Tires on the east side of the site. Subsequent to City approval, Wendy’s Restaurants decided not to continue with the development. Hughes Investments is now proposing a retail building to complement the Lowe’s Home Improvement Warehouse and the America’s Tires store. The applicant’s request is outlined in a letter dated December 18, 2006 (Attachment No. 3).

Background:

On October 28, 2003, the Planning Commission approved Conditional Use Permit No. 00-31 for a 135,666 sq. ft. Lowe's Home Improvement Warehouse along with a 21,416 sq. ft. garden center and an 8,500 sq. ft. restaurant pad located on Warner Avenue, east of Beach Boulevard. Condition of Approval No. 7 of Conditional Use Permit No. 00-31 requires that future design and elevations of the restaurant pad be architecturally compatible to Lowe's Home Improvement Warehouse design and elevations. In addition, the building design, colors, materials, and landscaping shall be subject to review and approval by the Design Review Board.

On October 27, 2005, the Design Review Board approved Design Review No. 06-26 for a 3,212 sq. ft. Wendy's restaurant and a 3,696 sq. ft. retail building at the subject pad site.

On July 13, 2006, the Design Review Board approved Design Review No. 06-18 for a 6,400 sq. ft. automotive tire retail building in place of the previously approved 3,696 sq. ft. retail building.

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property	MV-F10-d-a (Mixed Use Vertical—Max. 1.5 Floor Area Ratio—Max. 25 du/ac—Design Overlay—Automobile District Overlay)	CG (Commercial General)	Vacant
North of Subject Property	MV-F10-d-a	CG	Ocean View Unified School District Bus Maintenance Facility
South of Subject Property (across Warner Avenue)	RL-7 (Residential Low Density – Max. 7 du/ac)	RL (Residential Low Density)	Single-Family Residential
East of Subject Property	MV-F10-d-a	CG	Vacant
West of Subject Property	MV-F10-d-a	CG	Lowe's Home Improvement Warehouse

General Plan Conformance:

The General Plan Land Use Map designation on the subject property is MV-F10-d-a (Mixed Use Vertical—Max 1.5 Floor Area Ratio—Max 25 du/ac—Design Overlay—Automobile District Overlay). The project site is identified in the General Plan as part of Subarea 6B, located on the east and west sides of Beach Boulevard between Warner Avenue and Edinger Avenue. The entitlement plan amendment is consistent with this designation and the goals and objectives of the City's General Plan as follows:

A. Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

Goal LU 10: Achieve the development of a range of commercial uses.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach recreational resources.

Policy LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

Policy LU 10.1.11: Promote the introduction of a diversity of uses in general commercial centers, particularly those containing anchor grocery stores that improve their relationship with surrounding residential neighborhoods.

Policy LU 10.1.12: Require that Commercial General uses be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development including the consideration of:

- Incorporation of site landscape, particularly along street frontages and in parking lots;
- Linkage of buildings by common architectural design, landscape and pedestrian systems, to avoid the appearance of independent free-standing structures surrounded by parking;
- Siting and design of structures to facilitate and encourage pedestrian activity;
- Siting of one or more buildings in proximity to the street frontage to convey a visual relationship to the street and sidewalks;
- Architectural treatment of buildings to minimize visual bulk and mass, using techniques such as the modulation of building volumes and articulation of all elevations; and
- Inclusion of consistent signage designed and integrated into the building's architectural character.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The retail uses represent development which would support the needs and reflect market demand of City residents and visitors. The proposed development improves the project site, which is currently vacant, and provides additional commercial uses that would attract and complement existing retail uses along Beach Boulevard and Warner Avenue. In addition, the proposed project would help the City to achieve its goal of enhancing the community image through the design and construction of a high-quality development while still allowing for the market-driven commercial development. The

proposed project includes retail uses in accordance with the patterns and distribution of use and density within the Land Use Plan Map of the City of Huntington Beach General Plan. The design of the project conveys a unified, high-quality visual image that contributes to the City's urban form and character. The City's Design Review Board has reviewed the proposed architecture, colors, and materials and recommends approval of the design concept.

B. Economic Development Element

Goal ED 1: Provide economic opportunities for present and future Huntington Beach residents and businesses through employment and local fiscal stability.

Goal ED 2: Aggressively retain and enhance the existing commercial, industrial, and visitor-serving uses while attracting new uses to Huntington Beach.

Goal ED 3: Enhance Huntington Beach's economic development potential through strategic land use planning and sound urban design practices.

The proposed project promotes development in accordance with the Economic Development Element of the City of Huntington Beach General Plan, as a new commercial retail development will broaden and stabilize the City's economic base. New employment opportunities will be created both in the construction of the proposed development and in the long-term operations of the retail establishments. Commercial development of this underutilized property will encourage future development to expand westerly to Beach Boulevard as noted in General Plan Subarea 6B. High-quality architecture and site design will enhance the long-term economic success of the proposed development and will further enhance Huntington Beach's economic prospects.

Zoning Compliance:

The proposed project is located in the CG (Commercial General) zone and complies with all applicable development standards of that zone.

Urban Design Guidelines Conformance:

The proposed project has been analyzed for conformance with the Urban Design Guidelines, Chapter Four (General Commercial). The proposed project substantially conforms with these guidelines, including, but not limited to, the following:

- Contribute towards reinforcing or establishing a distinct architectural and environmental image for the district within which the project site is located;
- Consider the scale, proportion and character of development in the surrounding area;
- Facilitate and encourage pedestrian activity and mitigate existing adverse automobile oriented patterns; and
- The arrangement of structures, parking and circulation areas and open spaces should recognize the particular characteristics of the site and should relate to the surrounding built environment in pattern, function, scale, character and materials. In developed areas, new projects should meet or exceed the standards of quality which have been set by surrounding development.

The building will be compatible with the surrounding area in terms of design, layout, materials, and architecture. The proposed variation in the roofline with the use of a gable roof and parapet walls are consistent with the Design Guidelines. The height and mass of the building are consistent with adjacent properties. The colors, materials, and architectural details complement existing developments.

Environmental Status:

The requested entitlement plan amendment was determined to be within the scope of the Lowe's Home Improvement Warehouse Environmental Impact Report (EIR No. 00-01) which was certified by the Planning Commission on October 28, 2003.

Coastal Status: Not Applicable

Redevelopment Status: Not Applicable

Design Review Board:

On February 8, 2007, the Design Review Board recommended approval of the 7,800 sq. ft. retail building to the Planning Commission. The design, colors, and materials for the development were approved based on their overall compliance with the Urban Design Guidelines and compatibility to the Lowe's Home Improvement Warehouse design and elevations.

Subdivision Committee: Not Applicable

Other Departments Concerns and Requirements:

The Public Works Department reviewed the request to increase the total permitted building square footage on the vacant parcel and determined that the change would not result in a significant increase in site-generated traffic for the peak hours. The trips generated would be consistent with the analysis presented in the traffic study of the Lowe's Environmental Impact Report. Therefore, the proposed increase in building square footage would not be expected to generate the need for any additional mitigation measures for the project or a change in any traffic design features for project access.

The Building and Fire Departments also reviewed the request and had no comments.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on April 12, 2007, and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), applicant, and interested parties. As of April 17, 2007, no public comment has been received by staff.

Application Processing Dates:

DATE OF COMPLETE APPLICATION:
 Entitlement Plan Amendment: January 26, 2007

MANDATORY PROCESSING DATE(S):
 July 25, 2007 (Within 180 days from application deemed complete date when CEQA determination relies on a previously prepared EIR)

Entitlement Plan Amendment No. 06-07 was filed on December 18, 2006 and deemed completed on January 26, 2007.

ANALYSIS:

The primary issue for the Planning Commission to consider in conjunction with this entitlement plan amendment request is the increase in development and related impacts on surrounding commercial and residential properties. The following is an analysis of the primary issues of the proposed project.

Compliance with Development Standards

The increase in maximum building size on the vacant parcel from 8,500 sq. ft. of restaurant use to 14,200 sq. ft. of retail use will not affect the project's ability to conform with development standards. The proposed retail building is located towards the front of the subject site, at the approximate location of the restaurant approved by the Planning Commission (Conditional Use Permit No. 00-31) and the Wendy's restaurant approved by the Design Review Board (Design Review No. 06-26). Although located close to the street, the building still maintains the required minimum front and side setbacks. The increase in building size will not affect the provision of landscaping on the subject site. As conditioned by Conditional Use Permit No. 00-31, 16 percent of the subject site shall be landscaped where only 8 percent of landscaping is required per Section 232.08 of the HBZSO. The proposed change of use and increase in building size will conform to the parking requirements of the HBZSO as follows:

	USE	BUILDING AREA	CODE PROVISION	REQUIRED	PROPOSED
CUP 00-31	Restaurant	8,500 sq. ft. (restaurant)	1/100 sq. ft.	85 spaces	85 spaces
Option 1	America's Tires	4,990 sq. ft. (retail) 1,410 sq. ft. (storage)	1/200 sq. ft. 1/1,000 sq. ft.	25 spaces 2 spaces	64 spaces
	Wendy's	3,212 sq. ft. (restaurant)	1/100 sq. ft.	32 spaces	
	Total	9,612 sq. ft.		59 spaces	
Option 2	America's Tires	4,990 sq. ft. (retail) 1,410 sq. ft. (storage)	1/200 sq. ft. 1/1,000 sq. ft.	25 spaces 2 spaces	67 spaces
	Retail Building	7,800 sq. ft. (retail)	1/200 sq. ft.	39 spaces	
	Total	14,200 sq. ft.		66 spaces	

Traffic

The proposed change in use and increase in building size were reviewed by the Public Works Department for potential impacts on the trip generation. Based on the traffic study of the Lowe's Environmental Impact Report, the proposed change would generate an increase of 753 daily trips, a decrease of 41 trips for the AM peak hour and an increase of 30 trips for the PM peak hour. The Public Works Department determined that the change would not result in a significant increase in site-generated traffic for peak hours. Therefore, the proposed changes would not trigger the need for any additional analysis beyond what was analyzed in the Lowe's Environmental Impact Report. The threshold for further analysis is an increase of more than 50 trips per peak hour.

Noise

The subject site is separated from residential uses to the north, south, and east by several existing buffers. Between the site and the single family residential to the north are the existing Ocean View Unified School District Bus Maintenance Facility and the Flood Control Channel. The flood control channel is approximately 108 feet wide. Residential properties on the north side of the channel are oriented with backyards facing the channel with approximately five to six foot high solid masonry block walls along the property line. Warner Avenue, a 120 foot wide arterial street, buffers single family and multi-family residential uses to the south. Multi-family residential units to the east are buffered from the site by the existing 232 foot wide vacant lot. Multi-family residential properties to the east are further separated from the commercial development by a 20 foot wide alley serving open carports with the residential units located beyond. The subject site is designed to have the America's Tires store bay doors facing west and the retail tenants front doors facing east. With the built-in separations, existing buffers, and recommended conditions of approval, residential properties are adequately protected from the proposed commercial development and no adverse noise impacts are anticipated. To address the Commission's concerns regarding noise, conditions pertaining to noise have been incorporated into the suggested conditions of approval.

The change in use and increase in building size is consistent with the Mixed Use-Vertical Land Use designation of the General Plan. The project will comply with the Commercial General zoning designation development standards, including setbacks, height, landscaping, and parking requirements. The proposed project will be compatible with the uses and structures on the adjacent surrounding properties because of building design, noise attenuation, and architectural quality. The change in use and increase in building size will not result in significant increases in traffic and noise generation above levels compatible with the area. Therefore, staff recommends approval of Entitlement Plan Amendment No. 06-07 based on the factors identified above.

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval—EPA No. 06-07
2. Site plan, floor plan, and elevations dated March 6, 2007
3. Project narratives dated December 18, 2006 and March 9, 2007
4. Planning Commission Notice of Action—CUP No. 00-31 dated October 29, 2003
5. Traffic Generation Review by the Pubic Works Department dated March 5, 2007

SH:HF:RR:TN;jc

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

ENTITLEMENT PLAN AMENDMENT NO. 06-07

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project is within the scope of the Lowe's Home Improvement Warehouse Environmental Impact Report (EIR No. 00-01) which was certified by the Planning Commission on October 28, 2003.

FINDINGS FOR APPROVAL – ENTITLEMENT PLAN AMENDMENT NO. 06-07:

1. Entitlement Plan Amendment No. 06-07 to amend Condition of Approval No. 8 to allow a maximum building area of 14,200 sq. ft. on the vacant parcel will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project has been evaluated for compatibility with the surrounding neighborhood in terms of uses, noises, and traffic generation. The project is designed to address separation to adjacent sensitive properties, provides adequate circulation and parking to serve the uses on site, and meets the goals and policies of the General Plan.
2. The entitlement plan amendment will be compatible with surrounding uses because the proposed amendment represents a minor alteration in land use limitations, which will not generate significant noise, traffic, or other impacts to surrounding uses.
3. The proposed Entitlement Plan Amendment No. 06-07 will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The proposed development complies with the zoning development standards and land use provisions contained in the Commercial General zoning district by providing code required minimum setbacks, landscaping, minimum parking and not exceeding the maximum building height and maximum floor area ratio.
4. The granting of the entitlement plan amendment will not adversely affect the General Plan. It is consistent with the Land Use Element designation of MV-F10-d-a (Mixed Use Vertical—Max 1.5 Floor Area Ratio—Max 25 du/ac—Design Overlay—Automobile District Overlay) on the subject property. The project site is identified in the General Plan as part of Subarea 6B, located on the east and west sides of Beach Boulevard between Warner Avenue and Edinger Avenue. In addition, it is consistent with this designation and the goals and objectives of the City's General Plan:

Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

Goal LU 10: Achieve the development of a range of commercial uses.

Objective LU 10.1: Provide for the continuation of existing and the development of a diversity of retail and service commercial uses that are oriented to the needs of local residents, serve the surrounding region, serve visitors to the City, and capitalize on Huntington Beach recreational resources.

Policy LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

Policy LU 10.1.11: Promote the introduction of a diversity of uses in general commercial centers, particularly those containing anchor grocery stores that improve their relationship with surrounding residential neighborhoods.

Policy LU 10.1.12: Require that Commercial General uses be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development including the consideration of:

- Incorporation of site landscape, particularly along street frontages and in parking lots;
- Linkage of buildings by common architectural design, landscape and pedestrian systems, to avoid the appearance of independent free-standing structures surrounded by parking;
- Siting and design of structures to facilitate and encourage pedestrian activity;
- Siting of one or more buildings in proximity to the street frontage to convey a visual relationship to the street and sidewalks;
- Architectural treatment of buildings to minimize visual bulk and mass, using techniques such as the modulation of building volumes and articulation of all elevations; and
- Inclusion of consistent signage designed and integrated into the building's architectural character.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

The retail uses represent development which would support the needs and reflect market demand of City residents and visitors. The proposed development improves the project site, which is currently vacant, and provides additional commercial uses that would attract and complement existing retail uses along Beach Boulevard and Warner Avenue. In addition, the proposed project would help the City to achieve its goal of enhancing the community image through the design and construction of a high-quality development while still allowing for the market-driven commercial development. The proposed project includes retail uses in accordance with the patterns and distribution of use and density within the Land Use Plan Map of the City of Huntington Beach General Plan. The design of the project conveys a unified, high-quality visual image that contributes to the City's urban form and character. The City's Design Review Board has reviewed the proposed architecture, colors, and materials and recommends approval of the design concept.

Economic Development Element

Goal ED 1: Provide economic opportunities for present and future Huntington Beach residents and businesses through employment and local fiscal stability.

Goal ED 2: Aggressively retain and enhance the existing commercial, industrial, and visitor-serving uses while attracting new uses to Huntington Beach.

Goal ED 3: Enhance Huntington Beach's economic development potential through strategic land use planning and sound urban design practices.

The proposed project promotes development in accordance with the Economic Development Element of the City of Huntington Beach General Plan, as a new commercial retail development will broaden and stabilize the City's economic base. New employment opportunities will be created both in the construction of the proposed development and in the long-term operations of the retail establishments. Commercial development of this underutilized property will encourage future development to expand westerly to Beach Boulevard as noted in General Plan Subarea 6B. High-quality architecture and site design will enhance the long-term economic success of the proposed development and will further enhance Huntington Beach's economic prospects.

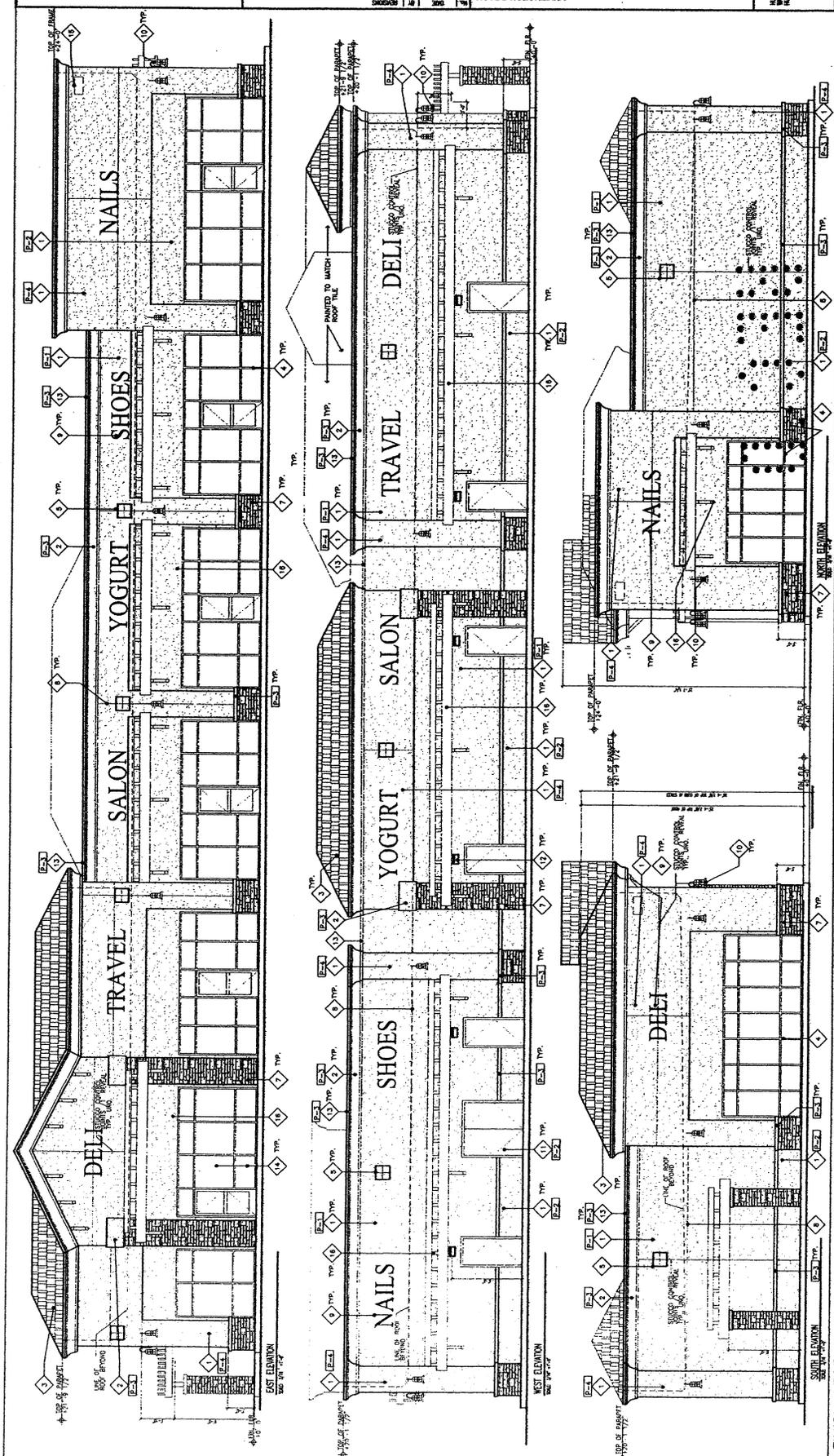
SUGGESTED CONDITIONS OF APPROVAL - ENTITLEMENT PLAN AMENDMENT NO. 06-07:

1. The site plan, floor plans, and elevations received and dated March 6, 2007 shall be the conceptually approved design.
2. The operation of the America's Tires Store shall comply with the following:
 - a. Internal sound buffers shall be installed.
 - b. The work-bay doors shall be kept closed whenever possible.
 - c. The Myers "quiet" Impact Wrench or comparable equipment with a sound power rating of 72 dB or less shall be used to decrease noise emissions.
 - d. Paging and music system speakers located or firing outside the building shall be prohibited.
 - e. All repair/service work shall be conducted entirely within the building.
3. All conditions of approval required under Conditional Use Permit No. 00-31 remain valid and shall be completed at the appropriate stage of development except for Condition of Approval No. 8 which is modified as follows:

"Depending on the uses proposed, the ~~restaurant vacant~~ pad and Parcel 3 may be subject to separate entitlement prior to issuance of grading permits on the pad site. Construction of the ~~restaurant vacant~~ pad building shall not result in any loss of landscaping as shown on the September 5, 2003 site plan and a maximum ~~8,500 square foot~~ **building area of 14,200 square feet** shall be constructed."

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.



FINISH SCHEDULE

F-1	WOOD TRUSS	WOOD TRUSS
F-2	WOOD TRELLIS	WOOD TRELLIS
F-3	STEEL CANOPY	STEEL CANOPY
F-4	STEEL CANOPY	STEEL CANOPY
F-5	STEEL CANOPY	STEEL CANOPY
F-6	STEEL CANOPY	STEEL CANOPY
F-7	STEEL CANOPY	STEEL CANOPY
F-8	STEEL CANOPY	STEEL CANOPY
F-9	STEEL CANOPY	STEEL CANOPY
F-10	STEEL CANOPY	STEEL CANOPY
F-11	STEEL CANOPY	STEEL CANOPY
F-12	STEEL CANOPY	STEEL CANOPY
F-13	STEEL CANOPY	STEEL CANOPY
F-14	STEEL CANOPY	STEEL CANOPY
F-15	STEEL CANOPY	STEEL CANOPY
F-16	STEEL CANOPY	STEEL CANOPY
F-17	STEEL CANOPY	STEEL CANOPY
F-18	STEEL CANOPY	STEEL CANOPY
F-19	STEEL CANOPY	STEEL CANOPY
F-20	STEEL CANOPY	STEEL CANOPY
F-21	STEEL CANOPY	STEEL CANOPY
F-22	STEEL CANOPY	STEEL CANOPY
F-23	STEEL CANOPY	STEEL CANOPY
F-24	STEEL CANOPY	STEEL CANOPY
F-25	STEEL CANOPY	STEEL CANOPY
F-26	STEEL CANOPY	STEEL CANOPY
F-27	STEEL CANOPY	STEEL CANOPY
F-28	STEEL CANOPY	STEEL CANOPY
F-29	STEEL CANOPY	STEEL CANOPY
F-30	STEEL CANOPY	STEEL CANOPY
F-31	STEEL CANOPY	STEEL CANOPY
F-32	STEEL CANOPY	STEEL CANOPY
F-33	STEEL CANOPY	STEEL CANOPY
F-34	STEEL CANOPY	STEEL CANOPY
F-35	STEEL CANOPY	STEEL CANOPY
F-36	STEEL CANOPY	STEEL CANOPY
F-37	STEEL CANOPY	STEEL CANOPY
F-38	STEEL CANOPY	STEEL CANOPY
F-39	STEEL CANOPY	STEEL CANOPY
F-40	STEEL CANOPY	STEEL CANOPY
F-41	STEEL CANOPY	STEEL CANOPY
F-42	STEEL CANOPY	STEEL CANOPY
F-43	STEEL CANOPY	STEEL CANOPY
F-44	STEEL CANOPY	STEEL CANOPY
F-45	STEEL CANOPY	STEEL CANOPY
F-46	STEEL CANOPY	STEEL CANOPY
F-47	STEEL CANOPY	STEEL CANOPY
F-48	STEEL CANOPY	STEEL CANOPY
F-49	STEEL CANOPY	STEEL CANOPY
F-50	STEEL CANOPY	STEEL CANOPY
F-51	STEEL CANOPY	STEEL CANOPY
F-52	STEEL CANOPY	STEEL CANOPY
F-53	STEEL CANOPY	STEEL CANOPY
F-54	STEEL CANOPY	STEEL CANOPY
F-55	STEEL CANOPY	STEEL CANOPY
F-56	STEEL CANOPY	STEEL CANOPY
F-57	STEEL CANOPY	STEEL CANOPY
F-58	STEEL CANOPY	STEEL CANOPY
F-59	STEEL CANOPY	STEEL CANOPY
F-60	STEEL CANOPY	STEEL CANOPY
F-61	STEEL CANOPY	STEEL CANOPY
F-62	STEEL CANOPY	STEEL CANOPY
F-63	STEEL CANOPY	STEEL CANOPY
F-64	STEEL CANOPY	STEEL CANOPY
F-65	STEEL CANOPY	STEEL CANOPY
F-66	STEEL CANOPY	STEEL CANOPY
F-67	STEEL CANOPY	STEEL CANOPY
F-68	STEEL CANOPY	STEEL CANOPY
F-69	STEEL CANOPY	STEEL CANOPY
F-70	STEEL CANOPY	STEEL CANOPY
F-71	STEEL CANOPY	STEEL CANOPY
F-72	STEEL CANOPY	STEEL CANOPY
F-73	STEEL CANOPY	STEEL CANOPY
F-74	STEEL CANOPY	STEEL CANOPY
F-75	STEEL CANOPY	STEEL CANOPY
F-76	STEEL CANOPY	STEEL CANOPY
F-77	STEEL CANOPY	STEEL CANOPY
F-78	STEEL CANOPY	STEEL CANOPY
F-79	STEEL CANOPY	STEEL CANOPY
F-80	STEEL CANOPY	STEEL CANOPY
F-81	STEEL CANOPY	STEEL CANOPY
F-82	STEEL CANOPY	STEEL CANOPY
F-83	STEEL CANOPY	STEEL CANOPY
F-84	STEEL CANOPY	STEEL CANOPY
F-85	STEEL CANOPY	STEEL CANOPY
F-86	STEEL CANOPY	STEEL CANOPY
F-87	STEEL CANOPY	STEEL CANOPY
F-88	STEEL CANOPY	STEEL CANOPY
F-89	STEEL CANOPY	STEEL CANOPY
F-90	STEEL CANOPY	STEEL CANOPY
F-91	STEEL CANOPY	STEEL CANOPY
F-92	STEEL CANOPY	STEEL CANOPY
F-93	STEEL CANOPY	STEEL CANOPY
F-94	STEEL CANOPY	STEEL CANOPY
F-95	STEEL CANOPY	STEEL CANOPY
F-96	STEEL CANOPY	STEEL CANOPY
F-97	STEEL CANOPY	STEEL CANOPY
F-98	STEEL CANOPY	STEEL CANOPY
F-99	STEEL CANOPY	STEEL CANOPY
F-100	STEEL CANOPY	STEEL CANOPY

FINISH LEGEND

1	EXTERIOR CEMENT PLASTER WITH LIGHT BAND TEXTURE FINISH BY LA HABRA PRODUCTS INTEGRAL COLOR COAT TO MATCH PAINT COLOR. PAINT AS PER SCHEDULE.
2	EPS FOAM CORNICE AND MOLDING WITH SMOOTH TEXTURE PLASTER FINISH.
3	SLATE TILE ROOF
4	DARK BRONZE ALUMINUM STOREFRONT SYSTEM BY U.S. ALUMINUM
5	ACCENT TILE (SLATE), AMERICAN SLATE CO. - COLOR: BAUM
6	NOT USED
7	VE VENER WANSKOT - FON DU LAC CUSTOM COUNTRY D/ FULLY GROUTED.
8	METAL REVEAL - CLEAR ANODIZED ALUMINUM FINISH
9	BUILDING SOUNGE BY SICH CONTRACTOR (ALU.-UNDER SEPARATE PERMIT)
10	DECORATIVE WALL MOUNTED LIGHT FIXTURE - SEE ELEC. DWGS. D.M. LIGHTING NO. 6529, POLISHED CHROME FINISH. (TO MATCH LONE'S)
11	HOLLOW METAL DOOR AND FRAME - PAINT TO MATCH ADJACENT SURFACE.
12	WALL MOUNTED LIGHT FIXTURE - SEE ELEC. DWGS. UPHONIA MSR 175 H. MET. MOLD. FT. FIXTURE, NATURAL ALUMINUM COLOR.
13	SHEET METAL PARAPET COPING - PAINTED SEMI-GLOSS FINISH
14	1/4" THK. FIXED GLAZING SYSTEM (TEMPERED WHERE REQUIRED)

FINISH SCHEDULE

F-1	WOOD TRUSS	WOOD TRUSS
F-2	WOOD TRELLIS	WOOD TRELLIS
F-3	STEEL CANOPY	STEEL CANOPY
F-4	STEEL CANOPY	STEEL CANOPY
F-5	STEEL CANOPY	STEEL CANOPY
F-6	STEEL CANOPY	STEEL CANOPY
F-7	STEEL CANOPY	STEEL CANOPY
F-8	STEEL CANOPY	STEEL CANOPY
F-9	STEEL CANOPY	STEEL CANOPY
F-10	STEEL CANOPY	STEEL CANOPY
F-11	STEEL CANOPY	STEEL CANOPY
F-12	STEEL CANOPY	STEEL CANOPY
F-13	STEEL CANOPY	STEEL CANOPY
F-14	STEEL CANOPY	STEEL CANOPY
F-15	STEEL CANOPY	STEEL CANOPY
F-16	STEEL CANOPY	STEEL CANOPY
F-17	STEEL CANOPY	STEEL CANOPY
F-18	STEEL CANOPY	STEEL CANOPY
F-19	STEEL CANOPY	STEEL CANOPY
F-20	STEEL CANOPY	STEEL CANOPY
F-21	STEEL CANOPY	STEEL CANOPY
F-22	STEEL CANOPY	STEEL CANOPY
F-23	STEEL CANOPY	STEEL CANOPY
F-24	STEEL CANOPY	STEEL CANOPY
F-25	STEEL CANOPY	STEEL CANOPY
F-26	STEEL CANOPY	STEEL CANOPY
F-27	STEEL CANOPY	STEEL CANOPY
F-28	STEEL CANOPY	STEEL CANOPY
F-29	STEEL CANOPY	STEEL CANOPY
F-30	STEEL CANOPY	STEEL CANOPY
F-31	STEEL CANOPY	STEEL CANOPY
F-32	STEEL CANOPY	STEEL CANOPY
F-33	STEEL CANOPY	STEEL CANOPY
F-34	STEEL CANOPY	STEEL CANOPY
F-35	STEEL CANOPY	STEEL CANOPY
F-36	STEEL CANOPY	STEEL CANOPY
F-37	STEEL CANOPY	STEEL CANOPY
F-38	STEEL CANOPY	STEEL CANOPY
F-39	STEEL CANOPY	STEEL CANOPY
F-40	STEEL CANOPY	STEEL CANOPY
F-41	STEEL CANOPY	STEEL CANOPY
F-42	STEEL CANOPY	STEEL CANOPY
F-43	STEEL CANOPY	STEEL CANOPY
F-44	STEEL CANOPY	STEEL CANOPY
F-45	STEEL CANOPY	STEEL CANOPY
F-46	STEEL CANOPY	STEEL CANOPY
F-47	STEEL CANOPY	STEEL CANOPY
F-48	STEEL CANOPY	STEEL CANOPY
F-49	STEEL CANOPY	STEEL CANOPY
F-50	STEEL CANOPY	STEEL CANOPY
F-51	STEEL CANOPY	STEEL CANOPY
F-52	STEEL CANOPY	STEEL CANOPY
F-53	STEEL CANOPY	STEEL CANOPY
F-54	STEEL CANOPY	STEEL CANOPY
F-55	STEEL CANOPY	STEEL CANOPY
F-56	STEEL CANOPY	STEEL CANOPY
F-57	STEEL CANOPY	STEEL CANOPY
F-58	STEEL CANOPY	STEEL CANOPY
F-59	STEEL CANOPY	STEEL CANOPY
F-60	STEEL CANOPY	STEEL CANOPY
F-61	STEEL CANOPY	STEEL CANOPY
F-62	STEEL CANOPY	STEEL CANOPY
F-63	STEEL CANOPY	STEEL CANOPY
F-64	STEEL CANOPY	STEEL CANOPY
F-65	STEEL CANOPY	STEEL CANOPY
F-66	STEEL CANOPY	STEEL CANOPY
F-67	STEEL CANOPY	STEEL CANOPY
F-68	STEEL CANOPY	STEEL CANOPY
F-69	STEEL CANOPY	STEEL CANOPY
F-70	STEEL CANOPY	STEEL CANOPY
F-71	STEEL CANOPY	STEEL CANOPY
F-72	STEEL CANOPY	STEEL CANOPY
F-73	STEEL CANOPY	STEEL CANOPY
F-74	STEEL CANOPY	STEEL CANOPY
F-75	STEEL CANOPY	STEEL CANOPY
F-76	STEEL CANOPY	STEEL CANOPY
F-77	STEEL CANOPY	STEEL CANOPY
F-78	STEEL CANOPY	STEEL CANOPY
F-79	STEEL CANOPY	STEEL CANOPY
F-80	STEEL CANOPY	STEEL CANOPY
F-81	STEEL CANOPY	STEEL CANOPY
F-82	STEEL CANOPY	STEEL CANOPY
F-83	STEEL CANOPY	STEEL CANOPY
F-84	STEEL CANOPY	STEEL CANOPY
F-85	STEEL CANOPY	STEEL CANOPY
F-86	STEEL CANOPY	STEEL CANOPY
F-87	STEEL CANOPY	STEEL CANOPY
F-88	STEEL CANOPY	STEEL CANOPY
F-89	STEEL CANOPY	STEEL CANOPY
F-90	STEEL CANOPY	STEEL CANOPY
F-91	STEEL CANOPY	STEEL CANOPY
F-92	STEEL CANOPY	STEEL CANOPY
F-93	STEEL CANOPY	STEEL CANOPY
F-94	STEEL CANOPY	STEEL CANOPY
F-95	STEEL CANOPY	STEEL CANOPY
F-96	STEEL CANOPY	STEEL CANOPY
F-97	STEEL CANOPY	STEEL CANOPY
F-98	STEEL CANOPY	STEEL CANOPY
F-99	STEEL CANOPY	STEEL CANOPY
F-100	STEEL CANOPY	STEEL CANOPY



ARCHITECTS & ENGINEERS
AIA, ARA
www.tarlos.com

17802 MITCHELL NORTH, IRVINE, CA 92614 □ TEL: (949) 250-4117 □ FAX (949) 250-1676 □ E-mail: jtarlos@tarlos.com
December 18, 2006

Tess Nguyen
City of Huntington Beach
2000 Main St.
Huntington Beach, CA 92648

City of Huntington Beach

DEC 18 2006

RE: Hughes Investments – Entitlement Plan Amendment to revise Condition #8 of CUP 200-31.

Dear Tess Nguyen,

On behalf of our client, Hughes Investments, Tarlos and Associates respectfully submits this written narrative as an attachment to the Entitlement Plan Application. We seek the approvals of the following:

- To change the limitation on the total maximum building size of 8,500 sq. ft. as stipulated in Condition #8 of Conditional Use Permit No. 2000-31 to allow a new 7,776 (*gross*) sq. ft. multi-tenant retail building adjacent to an approved 4,990 sq. ft. America's Tire Store within Parcel 3 of the Lowe's Shopping.

Project Description

Proposed is a new construction of a new multi-tenant retail building within Parcel 3 of the Lowe's Shopping Center on Warner Ave. The proposed development involves the modification of an approved site plan and elevations for a Wendy's Restaurant with a drive thru to propose a new multi-tenant retail building.

The proposed new building will be 7,776 (*gross*) sq. ft., (7,626 sq. ft. (*net lease area*)) multi-tenant retail building located within a lot area of approximately 54,749 sq. ft. This building will be located along the west side of the parcel adjacent to an 4,990 square foot America's Tire Store at the east side of the parcel. The building proposes up to six (6) tenants with individual square footages ranging in sizes from 1,080 to 1,620 sq. ft. However, sizes may be modified depending on the needs of these tenants. Final determination on the individual tenants have not been established at this time, as most lease agreements will be based on this "shell" building's design and layout to be approved. Therefore, determination on use, project services, hours of operation, and employee information cannot be stated at this time.

The proposed construction is will be a Type V-N with the exterior to be consistent with the design of the existing Lowe's and the adjacent America's Tire Store. Architectural elements of the existing shopping center such as accent tiling, stone veneer, dark bronze aluminum storefront, trellis elements, and decorative wall mounted lighting fixtures will be incorporated into this building. Signage is to be determined by each individual tenant and all approvals will be individually sought.

The lot provides a common parking area in which will provide a total of 71 spaces. Of this total parking area, the new retail area will provide thirty-seven (37), spaces and two (2) ADA compliant spaces. Access to the site will be from two driveway approaches located along the north portion of Warner Ave.

REGISTRATIONS IN ALABAMA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, DISTRICT OF COLUMBIA, FLORIDA, GEORGIA, IDAHO, ILLINOIS, INDIANA, IOWA, KANSAS, KENTUCKY, LOUISIANA, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NEW YORK, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, PENNSYLVANIA, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, UTAH, VIRGINIA, WASHINGTON, WEST VIRGINIA, WISCONSIN, WYOMING.

MEMBER OF THE AMERICAN INSTITUTE OF ARCHITECTS

AMERICAN REGISTERED ARCHITECTS

ATTACHMENT NO. 3.1

Existing Conditions

The site is within an existing fully developed Lowe's Shopping Center. However, the subject site is presently vacant. The site provides access with existing curbs and landscaping throughout the center and the perimeter of the lot. The sidewalk and paving within the Center is in good condition. All utilities are underground and available.

In communications with the Planning Department, it has been determined that this project/site is not located within a Hazardous Waste and Substance site pursuant to Section 65962.5 of the Government Code.

Nature and Reason Necessitating an Entitlement Plan Amendment

Per item No. 8 of the Conditions of Approval for CUP 2000-31, the subject parcel (Parcel 3), is subject to a maximum 8,500 square of total building area. This condition was imposed on the original site plan that was approved on September 5, 2003. This original site plan was approved with only one stand-alone restaurant proposed on this parcel.

Unfortunately, this original tenant withdrew and the landlord (*Hughes Investments*), secured a new agreement with Wendy's Restaurants to develop a new fast food restaurant on the west side site and propose a future tenant on the east side of this site. Since then, a 3,212 square foot Wendy's was approved under CUP 0031 and Hughes secured the entitlement for 4,990 square foot America's Tire Store as the east side tenant. In both approvals, the combined square footages of the Wendy's and America's Tire Store did not exceed the 8,500 square footage limitation.

Although approved, Wendy's restaurant decided not to continue with the development of the site. This resulted in Hughes having to reinvestigate the feasibility of the site to either attract a new quick service restaurant or retail tenant that would be complimentary to the shopping center and approved America's Tire Store. It was finally decided to propose a 7,776 square foot multi tenant retail building within the area that was approved for the Wendy's restaurant.

Although the overall design was approved, the change in the building footprint required a filing of a new Design Review Application. This Design Review Application was filed on October 15, 2006. However, due to the proposed new square footage of 7,776 square feet, this Design Review requires separate application to amend CUP 2000-31 to increase the maximum square footage since the combined square footage of the new retail building and tire store results in a total of 12,766 square feet. Any request to revise an item from Condition of Approval can only be approved by filing an Entitlement Plan Amendment.

Project Suitability Findings

The original limitations on square footage were placed as a result of a much larger stand-alone restaurant exceeding 6,000 square feet. It is presumed that the 8,500 square foot restriction was imposed so that any future increase in restaurant square footage or any future new construction on the Parcel would not compromise parking requirements, Floor Area Ratio, and landscaping for that site. However, since the approval of CUP 2000-31, the original tenant has withdrawn resulting in redesign and the securing of new entitlements for new tenants.

The proposed multi-tenant retail building is consistent with the CG Zoning and is consistent with the General Plan Land Use Elements that designates the subject property for retail commercial uses.

Furthermore, the revised site plan still complies with the development standards set forth in the City's Zoning Ordinance.

The proposed increase will not adversely affect the existing and surrounding properties and this multi tenant building will be more complimentary to the existing shopping center than a stand-alone restaurant or fast-food restaurant with a drive-thru. This new multi-tenant building site layout will forfeit the approved drive-thru resulting in a less intensified used then what was originally approved. Additionally, any conditions or development restrictions included in the final approval of this site can be applied to the future tenants who will ultimately secure their own use specific entitlements.

Although there is an increase in the total square footage, this site plan will not increase the existing area and since the site will not propose a drive-thru. Since the drive -thru is no longer proposed, it will not generate excessive vehicular traffic-generating capacity, noise, vibrations, and other factors associated with drive-thru restaurants that tend to make the general environment less desirable for existing and planned developments surrounding the area.

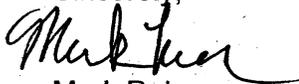
The proposed physical and development characteristics will not be detrimental in any way to the character, design, image, and architectural appeal of any existing or planned developments of the zone classification as this project only seeks to incorporate a minor change by revising the maximum allowable square footage for this site. The proposed multi tenant building will be physically compatible with the architectural design of the overall shopping center. To achieve this, the applicant has been in close communication with this Planning Department to revise the architectural look and elements to match the center and his design will be finalized at the Design Review phase (*DR 06-035*), and not within this Entitlement Plan Amendment.

The revised site, grading, and landscape plans show that all development standards can be met even with this increase in total square footages. The proposed multi tenant building will bring a desired community opportunity on what would be an underutilized area of the shopping center if left as is and undeveloped. A multi tenant building provides a better use as the site as it will provide additional shopping choices for residents rather than a single use restaurant.

The plans submitted are consistent with prior the prior approvals for the Wendy's restaurant and the development standards are satisfied. The proposed multi tenant building will be complimentary to the existing shopping center and will not unreasonably diminish or impair the public health, safety, comfort, morals or welfare of the residents in that area of Huntington Beach.

Please feel free to contact me at (949) 250-4117 should you have any questions. Thank you in advance for your consideration.

Sincerely,



Mark Raber
Project Representative
Tarlos and Associates

Nguyen, Tess

From: Mark Raber [mraber@tarlos.com]
Sent: Friday, March 09, 2007 8:26 AM
To: Nguyen, Tess
Subject: RE: EPA--8291 Warner Avenue

Tess,

Per your e-mail below regarding EPA 06-007, we are revising the requested square footage to be 14,200 square feet. Please note this on the application so that we may proceed going to Planning Commission. Please notify us when we are scheduled and let us know if you need additional information.

Sincerely,
 Mark Raber
 Tarlos and Associates
 17802 Mitchell North
 Irvine, CA 92614
 (949) 250-4117

-----Original Message-----

From: Nguyen, Tess [mailto:tnguyen@surfcity-hb.org]
Sent: Wednesday, March 07, 2007 1:37 PM
To: Mark Raber
Subject: EPA--8291 Warner Avenue

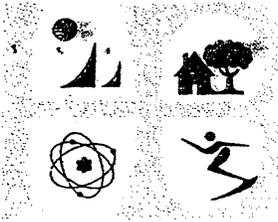
Hi Mark,

I have received the plans that were submitted on March 6, 2007. I also received the traffic generation from Public Works/Traffic. The increase in square footage to include the America's Tires and new retail building will not require additional mitigation measures for the project. The Entitlement Plan Amendment (EPA) can now be scheduled for Planning Commission hearing. I still need from you the total square footage requested for the EPA. It was previously requested for 13,000 sf. With the changes involving America's Tires, the total square footage has changed. Please let me know the new square footage so I can proceed with the EPA. Please let me know if you have any questions.

Tess Nguyen
 Associate Planner
 City of Huntington Beach
 (714) 374-1744 phone
 (714) 374-1540 fax
 tnguyen@surfcity-hb.org

3/28/2007

ATTACHMENT NO. 3.4



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

Phone 536-5271
Fax 374-1540
374-1648

NOTICE OF ACTION

October 29, 2003

Paul Rothenberg
Canyon Consulting
4665 MacArthur Court, Ste. 200
Newport Beach, CA 92660

SUBJECT: ENVIRONMENTAL IMPACT REPORT NO. 00-01/TENTATIVE PARCEL MAP NO. 2002-125/CONDITIONAL USE PERMIT NO. 00-31 (LOWE'S HOME IMPROVEMENT WAREHOUSE/NORTHEAST CORNER OF BEACH BOULEVARD AND WARNER AVENUE)

APPLICANT: Paul Rothenberg, Canyon Consulting

REQUEST: EIR: An analysis of potential environmental impacts associated with a zoning map amendment request to change the zoning on the former Rancho View School from Public-Semipublic to General Commercial and a request for commercial development consisting of the redevelopment and intensification of a 25.6-acre site consisting of three areas (A, B1, and B2). The applicant proposes to develop a Lowe's Home Improvement Warehouse and a restaurant pad on the former Rancho View School site (Area A). Associated improvements include new parking, landscaping, and demolition of the former elementary school. The five Ocean View Little League baseball fields require relocation under the proposed plan. In addition, EIR No. 00-01 analyzes the potential future development and intensification of an adjacent 6.3-acre project site with commercial/retail, office, and restaurant uses located at the northeast corner of Beach Boulevard and Warner Avenue (Area B1). No development is proposed in Area B1 at this time. Also included in the project site is the Ocean View School District Bus Maintenance Facility (Area B2) located east of Rancho View School. No development is proposed in Area B2 at this time. TPM: A subdivision map to consolidate multiple parcels on the former Rancho View School into four parcels for commercial development purposes. The map includes right of way dedications along Warner Avenue. CUP: To permit the construction of a 135,666 sq. ft. Lowe's Home Improvement Warehouse along with a 21,416 sq. ft. garden center and an 8,500 sq. ft. restaurant pad. The proposal includes a request for 19.5% of the total parking stalls as compact size.

PROPERTY OWNER:

Dr. James Tarwater, Superintendent, Ocean View School District
17200 Pinehurst, Huntington Beach 92647

LOCATION:

Bounded by Warner Avenue on the south, Beach Boulevard on the west, Roubidoux Drive on the north, and multi-housing units located just west of Minoru Lane on the east. The project does not include the existing Southern California Edison transfer station located at the northwest corner of B Street and Warner Avenue.

ATTACHMENT NO. 4.1

DATE OF ACTION: October 28, 2003

On Tuesday, October 28, 2003, the Huntington Beach Planning Commission took action on your application. Environmental Impact Report (EIR) No. 00-01 was certified as adequate and complete in accordance with CEQA requirements by approving Resolution No. 1586. Tentative Parcel Map No. 2002-125 and Conditional Use Permit No. 00-31 were approved with findings and modified conditions of approval (attached).

Please be advised that the Planning Commission reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Planning Commission becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the City Clerk within ten (10) calendar days of the date of the Planning Commission's action. The notice of appeal shall include the name and address of the appellant, the decision being appealed, and the grounds for the appeal. A filing fee shall also accompany the notice of appeal. The appeal fee is \$700.00 for a single-family dwelling property owner appealing the decision on his/her own property. The appeal fee is \$2,025.00 for all other appeals. In your case, the last day for filing an appeal and paying the filing fee is November 7, 2003.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

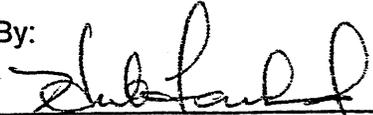
You are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to *Government Code* §66020.

If there are any further questions, please contact Jane James, Senior Planner at (714) 536-5596, or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,

Howard Zelefsky, Secretary
Planning Commission

By:


Herb Fauland, Principal Planner

Attachments

1. EIR No. 00-01 CEQA Findings of Fact with Statement of Overriding Considerations
2. EIR No. 00-01 Mitigation Monitoring Program
3. Tentative Parcel Map No. 2002-12 and Conditional Use Permit No. 00-31 Findings and Conditions of Approval

c: Property Owner

FINDINGS AND CONDITIONS OF APPROVAL

TENTATIVE PARCEL MAP NO. 2002-125/ CONDITIONAL USE PERMIT NO. 00-31

FINDINGS FOR APPROVAL - TENTATIVE PARCEL MAP NO. 2002-125:

1. Tentative Parcel Map No. 2002-125 for the subdivision of 17.4 acres into four general commercial lots, minimum 1.2 acres in size access to a public street either by direct frontage or irrevocable access agreement is consistent with the General Plan Land Use Element designation of MV-F10-d-a (Mixed Use-Vertical Integration of Housing-1.5 Floor Area Ratio-Design Overlay-Auto District Overlay) on the subject property, or any applicable specific plan, or other applicable provisions of this Code because the subdivision will provide a consolidated development consistent with the design concept envisioned by the General Plan and Urban Design Guidelines.
2. The site is physically suitable for the type and density of development. The 17.4 acre project site is generally flat, rectangular, and provides the necessary area for development by consolidating multiple parcels consistent with the intensity and density of the General Plan Land Use designation and the proposed General Commercial zoning district. With the implementation of mitigation measures as described in EIR No. 00-01, the site is suitable for development.
3. The design of the subdivision or the proposed improvements will not cause serious health problems or substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Notwithstanding the foregoing, the Planning Commission may approve such a tentative map if an environmental impact report was prepared with respect to the project and a finding was made that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.
4. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision unless alternative easements, for access or for use, will be provided. The tentative map provides all the necessary easements and access requirements of the City for the public and provides the necessary public improvements. The improvements include dedications, curbs, gutters, sidewalks, streets, and easements with reciprocal access between properties to adequately serve the site and adjacent properties.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 00-31:

1. Conditional Use Permit No. 00-31 for the establishment, maintenance and operation of an approximate 135,666 square foot Lowe's Home Improvement Warehouse with a 24,416 sq. ft. garden center, an approximate 8,500 sq. ft. restaurant pad, to allow 19.5% (126 spaces) of the 647 total parking spaces on the Lowe's site as compact in size, and to allow designated areas for permanent outdoor display of merchandise will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The project has been evaluated for compatibility with the surrounding neighborhood and with the conditions of approval imposed, the project will be designed to address separation to adjacent properties, provides adequate setbacks, does not exceed building height, provides code required landscaping, provides the required parking to serve the uses on site, and meets the goals and policies of

the General Plan. In addition, the provision of compact parking spaces provides an efficient use of the parking lot, maximizes the total number of parking spaces and provides an efficient layout of the parking design.

2. The conditional use permit will be compatible with surrounding uses because residential uses are adequately buffered from the commercial development, noise impacts are mitigated through design improvements, delivery hours are restricted to daytime only, and Ocean View School District buses, Lowe's delivery vehicles, and customers can safely utilize the main driveway entrance from Warner Avenue.
3. The proposed request to construct an approximate 135,666 square foot Lowe's Home Improvement Warehouse with a 24,416 sq. ft. garden center, to allow 19.5% (126 spaces) of the 647 total parking spaces on the Lowe's site as compact in size, to allow areas for permanent outdoor display of merchandise, and to construct an 8,500 sq. ft. restaurant pad, will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance. The proposed development plan complies with the zoning development standards and land use provisions contained in the General Commercial zoning district by providing code required minimum setbacks, minimum landscaping, minimum parking, maximum building height, and maximum floor area ratio.
4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of MV-F10-d-a (Mixed Use-Vertical Integration of Housing-1.5 Floor Area Ratio-Design Overlay-Auto District Overlay on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Goal LU 1: Achieve development that maintains or improves the City's fiscal viability and reflects economic demands while maintaining and improving the quality of life for the current and future residents of Huntington Beach.

Goal LU 2: Ensure that development is adequately served by transportation, infrastructure, utility infrastructure, and public services adequately serve development.

Goal LU 4: Achieve and maintain high quality architecture, landscape, and public open spaces in the City.

Goal LU 5: Ensure that significant environmental habitats and resources are maintained.

Goal LU 10: Achieve the development of a range of commercial uses.

Objective LU 10.1.3: Require the incorporation of facilities to promote the use of public transit, such as bus turnouts and drop-offs where appropriate.

Policy LU 10.1.4: Require that commercial buildings and sites be designed to achieve a high level of architectural and site layout quality.

Policy LU 10.1.5: Require that buildings, parking, and vehicular access be sited and designed to prevent adverse impacts on adjacent residential neighborhoods.

Policy LU 10.1.6: Require that commercial projects abutting residential properties adequately protect the residential use from the excessive or incompatible impacts of noise, light, vehicular traffic, visual character, and operational hazards.

Policy LU 10.1.11: Promote the introduction of a diversity of uses in general commercial centers, particularly those containing anchor grocery stores that improve their relationship with surrounding residential neighborhoods.

Policy LU 10.1.12: Require that Commercial General uses be designed and developed to achieve a high level of quality, distinctive character, and compatibility with existing uses and development including the consideration of:

- Incorporation of site landscape, particularly along street frontages and in parking lots;
- Linkage of buildings by common architectural design, landscape and pedestrian systems, to avoid the appearance of independent freestanding structures surrounded by parking;
- Siting and design of structures to facilitate and encourage pedestrian activity;
- Siting of one or more buildings in proximity to the street frontage to convey a visual relationship to the street and sidewalks;
- Architectural treatment of buildings to minimize visual bulk and mass, using techniques such as the modulation of building volumes and articulation of all elevations; and
- Inclusion of consistent signage designed and integrated into the building's architectural character.

Goal LU 11: Achieve the development of projects that enable residents to live in proximity to their jobs, commercial services, and entertainment, and reduce the need for automobile use.

Policy LU 7.1.6: Accommodate the development of additional jobs-generating land uses that improve the 1992 jobs-to-housing ratio of 0.82 to 1.0 or greater; to meet objectives of the Regional Comprehensive Plan (Southern California Association of Governments) and Air Quality Management Plan. These should capitalize upon existing industrial strengths emphasizing the clustering of similar or complementary industries.

Policy LU 13.1.7: The type, intensity and density for reuse and/or development of surplus school sites shall be determined by the following:

- Compatibility with the type and character of adjacent uses; integration with adjacent commercial uses through the use of such amenities as common automobile access and reciprocal access agreements, consistent architectural treatment and pedestrian connections;
- The land use designations and policies for surrounding properties as defined by this plan;
- Formulation and approval of an appropriate site plan;
- Working with residents of surrounding neighborhoods in the formulation of a reuse plan; and
- The utilization of appropriate design features, such as, but not limited to:
 - The maintenance of active, usable open space for use by the surrounding neighborhood.
 - The provision of buffering, such as open space areas or landscaping between new development and existing development.
 - Compliance with the applicable Design and Development Standards specific in the City's General Plan.

The home improvement warehouse, restaurant use, and future potential development of retail, restaurant, and office uses represent development, which would support the needs and reflect market demand of City residents and visitors. The proposed development improves the project site, much of which is currently underutilized vacant school buildings, and provides additional destination uses that would attract and complement existing retail and restaurant uses along Beach Boulevard and Warner Avenue. In addition, the proposed project would help the City to achieve its goal of enhancing the community image of Huntington Beach through the design and construction of a high-quality, state-of-the-art development; impacts to the surrounding area are mitigated to the greatest extent possible, while still allowing for the market-driven commercial development.

The design of the project promotes development of commercial buildings that convey a unified, high-quality visual image and character that are intended to expand the existing commercial pattern along Beach Boulevard and Warner Avenue. The proposed project utilizes retail uses in accordance with the patterns and distribution of use and density within the Land Use Plan Map of the City of Huntington Beach General Plan. The City's Design Review Board has reviewed the proposed architecture, colors, and materials and recommends preliminary approval of the design concept.

The proposed project would develop a mix of commercial uses on parcels contiguous to similar uses in an established, urban area. Public services are currently available to the project site, as well as the surrounding parcels, and the project includes improvements to existing infrastructure to ensure adequate service after project implementation.

Development of the commercial retail and restaurant uses will generate jobs for the community without substantially increasing the need for housing as most employees will come from the local area rather than from a regional perspective. Future development in Area B1 may potentially result in the loss of nine legal non-conforming residential units, however, loss of the units does not result in a substantial impact to the overall housing stock and conditions of approval require relocation assistance to those residents of low or moderate income.

With the recommended conditions of approval the design of the project meets the objectives of the Urban Design Element. For example, reuse plans for the surplus school site account for the type and character of adjacent commercial and residential uses. Additionally, the recommended conditions of approval encourage integrated development between the school site and Beach Boulevard as noted in General Plan Subarea 6B. Also, the surrounding property owners and residents have participated in several workshops regarding the adequacy of environmental documentation. The primary user, Ocean View Little League will be relocated to a new site and the project incorporates adequate buffering between adjacent uses.

B. Economic Development Element

Goal ED 1: Provide economic opportunities for present and future Huntington Beach residents and businesses through employment and local fiscal stability.

Goal ED 2: Aggressively retain and enhance the existing commercial, industrial, and visitor-serving uses while attracting new uses to Huntington Beach.

Goal ED 3: Enhance Huntington Beach's economic development potential through strategic land use planning and sound urban design practices.

The proposed project promotes development in accordance with Huntington Beach's Economic Development Element, as a home improvement warehouse, restaurant, and future retail, dining, and office development will broaden and stabilize the City's economic base. New employment opportunities will be created both in the construction of the proposed development and in the long-term operations of the retail and restaurant establishments. Commercial development of this underutilized property will encourage future development to expand westerly to Beach Boulevard as noted in General Plan Subarea 6B. New construction at the former school site will likely spur rejuvenation of adjacent underutilized parcels in the future. State of the art, high-quality architecture and site design will enhance the long-term economic success of the proposed development and will further enhance Huntington Beach's economic prospects.

C. Circulation Element

Goal CE 1: Provide a balanced transportation system that supports the policies of the General Plan and facilitates the safe and efficient movement of people and goods throughout the City while providing a balance between economic development and the preservation of residential neighborhoods, and minimizing environmental impacts.

Goal CE 2: Provide a circulation system which supports existing, approved, and planned land uses throughout the City while maintaining a desired level of service on all streets and at all intersections.

Policy CE 2.1.1: Maintain a city-wide level of service (LOS) not to exceed LOS "D" for intersections during the peak hours.

Policy CE 2.1.2: Maintain a city-wide level of service (LOS) not to exceed LOS "C" for daily traffic, with the exception of Pacific Coast Highway south of Brookhurst Street.

Policy CE 2.1.3: Identify and improve roadways and intersections that are approaching, or have reached, unacceptable levels of service.

Goal CE 4: Encourage and develop a transportation demand management (TDM) system to assist in mitigating traffic impacts and in maintaining a desired level of service on the circulation system.

Goal CE 5: Provide sufficient, well-designed, and convenient on- and off-street parking facilities throughout the City.

Goal CE 7: Maintain and enhance the visual quality and scenic views along designated corridors.

A traffic impact analysis has been completed by a traffic engineering firm to ensure a balanced transportation system that adequately mitigates the project's potential traffic impacts while still allowing for commercial development to be achieved. The developer will be required to contribute a fair-share payment toward traffic system improvements to mitigate the project's proportionate impacts to certain intersections and roadways. Through the recommended conditions of approval, the project will be required to incorporate alternative modes of transportation through implementation of the Transportation Demand

Management ordinance. Preferentially located carpool parking spaces have been demonstrated on the site plan and other amenities, such as, employee lockers and showers, carpool information programs, and bike racks will be included in the overall design of the home improvement warehouse to reduce vehicular trips to the site. The well-designed parking facilities include compact spaces around the perimeter of the site, access between both proposed parcels without reentering the public street system, reciprocal driveways between uses, parking lot tree wells, and perimeter landscaping to enhance the view of the parking area from the surrounding street system.

CONDITIONS OF APPROVAL – TENTATIVE PARCEL MAP NO. 2002-125:

1. The tentative parcel map for the subdivision of 17.4 acres into four general commercial lots, minimum 1.2 acres in size, with access to a public street either by direct frontage or irrevocable access agreement, received and dated September 5, 2003 shall be the approved layout, except the property line at the proposed main driveway shall be revised to include the proposed curb ramp areas.
2. The developer shall enter into a Special Utility Easement Agreement with the City of Huntington Beach, relieving the City of financial responsibility for replacing and restoring any enhanced surface treatment resulting from the City's operation, maintenance, repair and replacement of the public water system facilities and appurtenances within the water line easement. **(PW)**
3. Prior to issuance of a grading permit the following shall be completed:
 - a. A focused Acoustical Analysis shall be performed on Alternate Site Design B analyzing potential noise sources and recommending noise attenuation measures, if necessary, to ensure compliance with external noise levels as required by Chapter 8.40 of the Huntington Beach Municipal Code. The Acoustical Analysis shall be at the direction of the Planning Department and at the developer's expense.
 - b. The following shall be shown on the grading plan:
 - i) Final grades and elevations on the grading plan shall not vary by more than one foot from the grades and elevations as shown on the approved site plan. **(PW)**
 - ii) Existing mature trees that are to be removed must be replaced at a 2 for 1 ratio with a 36" box tree or palm equivalent (13'-14' of trunk height for Queen Palms and 8'-9' of brown trunk). Applicant shall provide a consulting arborist report on all the existing trees. Said report shall quantify, identify, size and analyze the health of the existing trees. The report shall also recommend how the existing trees that are to remain (if any) shall be protected and how far construction/grading shall be kept from the trunk. **(PW)**
4. Prior to issuance of building permits, the following conditions shall be completed:
 - a. The developer shall prepare preliminary improvement plans and construction cost estimates for the following off-site mitigation measures to provide the basis for the determining fair share cost contributions:
 - i. Heil/Beach – construction of second northbound and southbound left turn lanes; construction of a second westbound through lane (combination through/right) replacing the westbound right turn lane on the near side of the intersection **(PW)**
 - ii. Warner/Magnolia – construction of a second northbound left turn lane **(PW)**

- iii. Warner/Beach – construction of a northbound right turn lane (PW)
 - iv. Warner/Newland – construction of a southbound right turn lane (PW)
 - b. The developer shall contribute a fair share cost for each of the off-site traffic mitigation measures based on the cost allocations identified in the approved supplement to traffic impact study. Some or all of the fair share contribution for individual measures may be satisfied through the payment of the project traffic impact fee in accordance with the Fair Share Traffic Impact Fee ordinance. A precise determination of the amounts and methods of satisfying the requirement will be determined following completion of the preliminary cost estimates for the improvements. (PW)
5. The Departments of Planning, Public Works and Fire are responsible for compliance with all conditions of approval herein as noted after each condition. The Planning Director and Public Works Director shall be notified in writing if any changes to the parcel map are proposed as a result of the plan check process. Permits shall not be issued until the Planning Director and Public Works Director have reviewed and approved the proposed changes for conformance with the intent of the Planning Commission's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Planning Commission's may be required pursuant to the HBZSO.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 00-31:

1. The site plan, floor plans and elevations received and dated September 5, 2003 shall be the conceptually approved layout with the following modifications:
- a. Elevations shall be revised for consistency with plans and elevations approved by the Design Review Board on July 25, 2002 and maintained in case file DRB No. 00-24 as Exhibit "A". In addition, DRB conditions of approval are as follows:
 - i. Landscaping adjacent to the Lowe's building shall be revised so that the proposed wainscoting is not completely covered by landscaping materials. Vines shall be provided in some select areas along the building frontage and final planting design shall be subject to approval of the City's Landscape Architect.
 - ii. The proposed tower at the customer loading/indoor lumber yard shall be revised to be architecturally weightier and more proportionate to the overall building size, particularly when viewed from the side angle. From the side view, the tower should be expanded and visually anchored at least one-half way back to the main building. Final design shall be subject to approval of Planning staff.
 - iii. The gray and blue tone color scheme shall be the recommended colors for the Lowe's structure. However, the colors on all materials shall be revised to provide more contrast. For example, the proposed dark colors shall be darker and the light colors shall be lighter. The final color scheme shall be subject to approval by Planning staff.
 - b. The delivery door on the west side of the proposed building shall be moved north on the wall such that delivery operations for lumber in that area do not impact apparatus access requirements.
 - c. The site plan shall be revised to indicate that outdoor merchandise sales events within the parking lot shall be limited to a maximum of eight events per calendar year. Seven

of the events shall be limited to a maximum 96-hour duration and duration of the eighth event (Christmas Tree sales) shall be in accordance with the Huntington Beach Zoning and Subdivision Ordinance Code requirements. Temporary use permits are not required for parking lot sales events. Consistent with this requirement, Lowe's shall submit a list of events and dates indicating the duration of events to the Planning Department on an annual basis.

- d. Elevations shall be revised to incorporate multiple roof planes and/or a variety of roof slopes to reduce the overall mass and bulk of the building and comply with the Urban Design Guidelines.
- e. Revise the site plan to incorporate decorative paving within the five foot sidewalk adjacent to the outdoor merchandise display at the building base.
- f. Revise the site plan to incorporate textured paving or banding to identify the outdoor display areas in a manner consistent with the project hardscape.
- g. Eliminate building materials, such as, sheetrock, roofing materials, bulk lumber, and bagged landscape items from the outdoor merchandise display areas adjacent to the wood trellis and the garden center.
- h. Revise the site plan to replace tubular fencing proposed on the north and east property lines with solid masonry block wall with decorative pilasters every 50 feet, except tubular fencing may remain between the Lowe's building and the north property line.
- i. Redesign the cart corrals to consist only of a small depression in the parking lot to contain the carts, a low curb, and a low profile "Cart Return" sign.
- j. Revise the site plan to relocate the majority of the cart return areas further north in the parking lot.
- k. Revise the sound wall along the westerly property line in a manner meeting the approval of the Planning Department.
- l. Revise the site plan to incorporate diamond shaped tree wells and decorative paving within the pedestrian link from Warner Avenue to Lowe's main entrance.
- m. Revise the rear (north) elevations to incorporate additional architectural design and treatment to minimize the flat, undifferentiated expanse of wall subject to approval of the Planning Department.
- n. Revise the site plan to depict compact parking stalls with a full paved 17 foot depth and no landscape overhang.
- o. Incorporate an electric vehicle charging station within the parking lot.
- p. Incorporate a Public Art element into the proposed project. Public Art shall include art that is:
 - i. Innovative, original, and of artistic excellence;
 - ii. Appropriate to the design of the project; and,

iii. Reflective of the community's cultural identity (ecology, history, or society)

q. Landscaping plans shall include a budget for trees along the rear property line with minimal budget spent on ground cover in this area. The proposed tree species shall be subject approval by the City Landscape Architect and the project arborist. Landscaping plans shall also depict substantial ground cover or shrubs to be shall be planted in all planter areas without relying heavily on wood/bark chips for coverage. Potted plants with automatic irrigation shall be included across the building frontage and/or landscape planters should be planned in strategic areas along the building base. Landscaping plans shall be coordinated with lighting plans so that dense trees do not reduce the effectiveness of parking lot lights and do not create shadows on vehicles.

2. Construction vehicles will not be allowed to take access from Roubidoux Drive and B Street. All access shall be taken from Warner Avenue. **(PW)**

3. Prior to submittal for building permits, the applicant shall submit a copy of the revised site plan, floor plans and elevations pursuant to Condition No. 1 for review and approval and inclusion in the entitlement file to the Planning Department and submit 8 inch by 10 inch colored photographs of all colored renderings, elevations, materials sample board, and massing model to the Planning Department for inclusion in the entitlement file.

4. Prior to issuance of building permits, the following shall be completed:

a. The final parcel map shall be recorded with the County of Orange. **(PW)**

b. An "Acceptance of Conditions" form shall be properly executed by the applicant and an authorized representative of the owner of the property, recorded with County Recorder's Office, and returned to the Planning Department for inclusion in the entitlement file. Conditions of approval shall remain in effect in the recorded form in perpetuity, except as modified or rescinded pursuant to the expressed written approval of the City of Huntington Beach.

c. The Public Art element shall be approved by the Design Review Board.

5. The structure(s) cannot be occupied, the final building permit(s) cannot be approved, and utilities cannot be released for commencement of use and issuance of a Certificate of Occupancy until compliance with all conditions of approval specified herein are accomplished and verified by the Planning Department.

6. The use shall comply with the following:

a. Delivery hours shall be limited to Monday – Saturday from 7:00 AM to 8:00 PM and Sunday from 8:00 AM to 4:00 PM.

b. Nighttime stocking shall be limited to interior store operations only and shall not include re-merchandising at the outdoor garden center, exterior lumber activities, customer pick-up, or seasonal merchandise display areas.

c. Customer store hours shall be limited to Monday – Saturday from 6:00 AM to 10:00 PM and Sunday from 8:00 AM to 8:00 PM.

- d. Parking lot lights shall be automatically dimmed to minimal security level lighting one hour after closing.
 - e. The Lowe's Home Improvement Warehouse shall be designated as a single user with a maximum of 10% of the gross building floor area devoted to an ancillary retail tenant.
 - f. Any re-use of the site or request for future demising walls within the Lowe's Home Improvement Warehouse building shall require approval of a conditional use permit by the Planning Commission.
7. Future design and elevations of the restaurant pad and Parcel 3 shall be architecturally compatible to Lowe's Home Improvement Warehouse design and elevations including architectural details, colors, materials, and landscaping. The building design, colors, materials, and landscaping shall be subject to review and approval by the Design Review Board prior to issuance of grading permits for any pad site.
 8. Depending on the uses proposed, the restaurant pad and Parcel 3 may be subject to separate entitlement prior to issuance of grading permits for the pad site. Construction of the restaurant pad building shall not result in any loss of landscaping as shown on the September 5, 2003 site plan and a maximum 8,500 square foot building shall be constructed.
 9. This Conditional Use Permit No. 00-31 shall not become effective until Zoning Map Amendment No. 00-02 has been approved by the City Council and is in effect.
 10. The Mitigation Monitoring Program detailed in Volume IV, Response to Comments/Final Environmental Impact Report No. 00-01, Section VI, Table VI-1 shall be adhered to.

Traffic Generation Review for Proposed 14,500 Retail/Commercial Substitution

EIR Traffic Study Analyzed Trip Generation (159,260 sf Lowes & 9,000 sf High Turnover Sit Down Restaurant)

<u>Daily</u>	<u>AM Peak Hour</u>	<u>PM Peak Hour</u>
7,220	280	565

Current Proposal (157,043 sf Lowes as constructed & 14,500 retail/commercial)

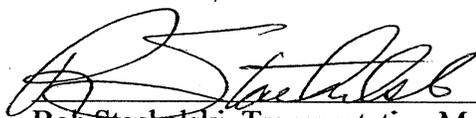
	<u>Daily</u>	<u>AM Peak Hour</u>	<u>PM Peak Hour</u>
Lowes	5,911	201	463
Retail *	2,062	38	132
Total	7,973	239	595
Net Change	+753	-41	+30

- * Retail trip projection assumes 25% of retail traffic will be from a combination of pass-by trips and multi-purpose trips associated with Lowes resulting in a 25% decrease in net trip generation.

Analysis & Conclusions

The proposed land use change for the project site is expected to result in trip increases in the afternoon peak traffic period and on a daily basis when compared to the 9,000 sf restaurant use analyzed in the original project traffic study. The original project traffic study included appropriate mitigation measures to reduce potential overall traffic impacts to a level of insignificance based on the assumed uses. The Lowes project was constructed at 157,043 sf – 2,257 sf less than assumed in the traffic study. The smaller building results in slightly lower trip generation for the Lowes portion of the project and serves to offset a portion of the increased trips that would result from the 14,500 sf retail site. In total, the projected trip generation for the overall site, including the proposed land use revision, would be expected to increase 753 trips on a daily basis (10% increase) and 30 trips during the afternoon peak hour (5% increase). A net reduction of 41 trips (14.6% reduction) is expected during the morning peak hour.

The expected trip generation that would result from the proposed land use change permitting a 14,500 sf retail/commercial building in place of the 9,000 sf restaurant pad would not result in significant increases in site generated traffic for the peak hours, both in terms of percentages and in actual street trips. Project mitigation was based solely on peak hour traffic generation making the increase in projected daily traffic insignificant. The trips generated would be consistent with analysis presented in the traffic study and would not be expected to generate the need for any additional mitigation measures for the project. These changes in trip generation would also not be significant enough to generate a need to change any traffic design features for project access (turn pocket lengths, driveway widths, etc.)


Bob Stachelski, Transportation Manager

3/5/07
Date



City of Huntington Beach Planning Department

STAFF REPORT

TO: Planning Commission
FROM: Scott Hess, Director of Planning
BY: Andrew Gonzales, Assistant Planner *AG*
DATE: April 24, 2007

SUBJECT: **APPEAL OF ZONING ADMINISTRATOR'S APPROVAL OF TEMPORARY USE PERMIT NO. 07-01 (HUNTINGTON SURF & SPORT OUTDOOR SALES)**

APPLICANT: Aaron Pai, 300 Pacific Coast Highway, Unit 408, Huntington Beach, CA 92648

APPELANT: Elizabeth Shier-Burnett, Planning Commissioner

PROPERTY

OWNER: Mohammed Zeidan, 200 Main Street, Unit 103, Huntington Beach CA 92648

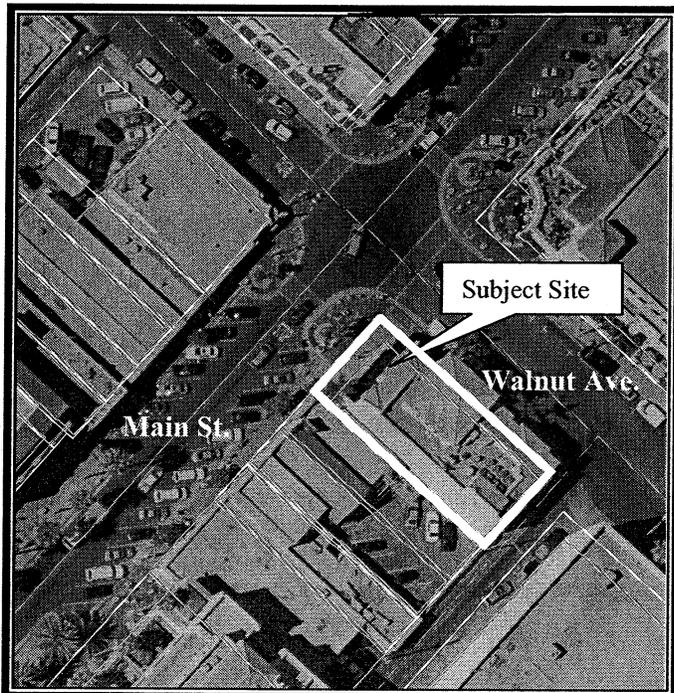
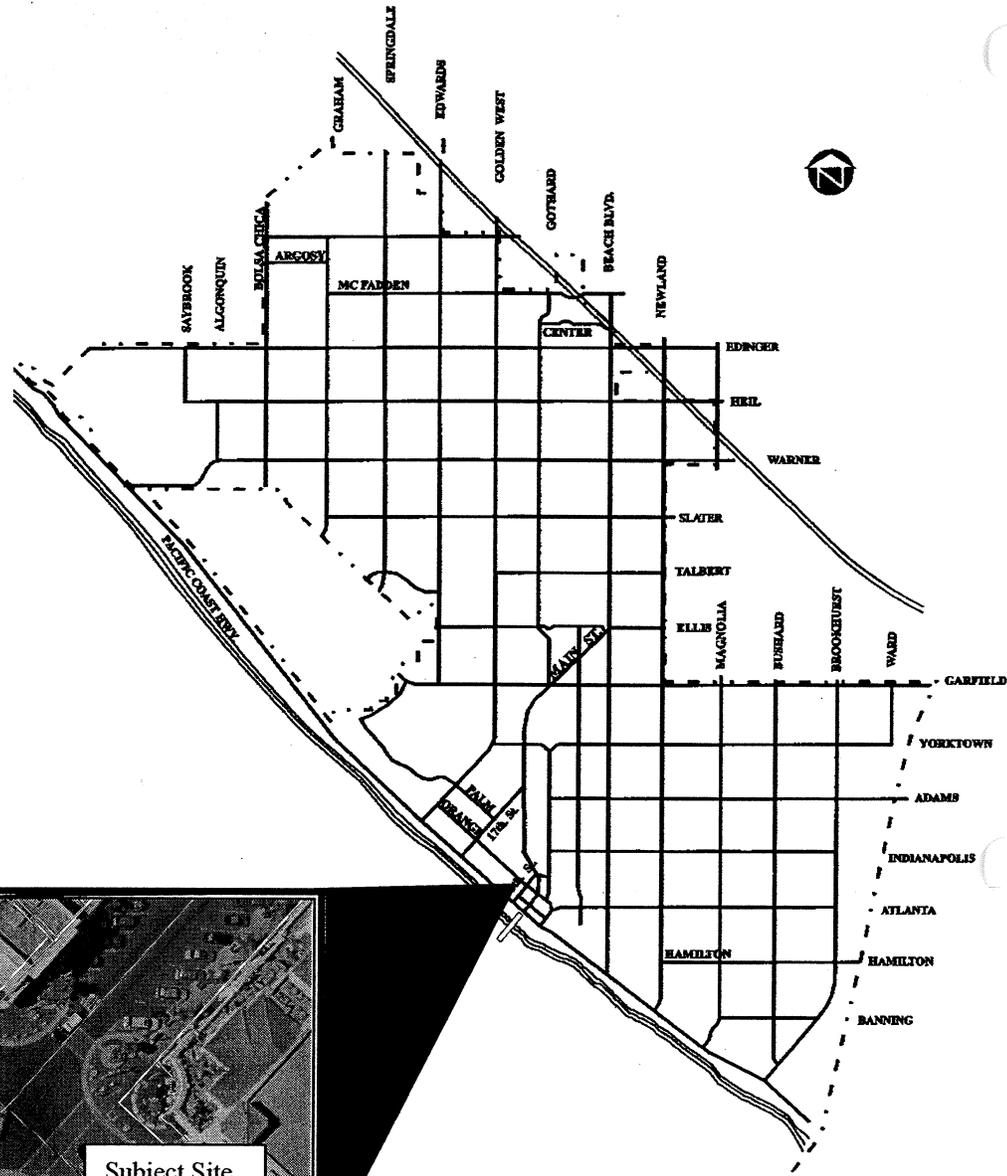
LOCATION: 126 Main Street, Unit 101 (southeast corner of Main Street and Walnut Avenue)

STATEMENT OF ISSUE:

- ◆ Temporary Use Permit No. 07-01 request:
 - To permit temporary outdoor sales in conjunction with an existing retail establishment, on forty-nine (49) scheduled days per year for a period of five (5) years from 2007-2011.
- ◆ Staff's Recommendation:

Approve Temporary Use Permit No. 07-01 based upon the following:

 - General Plan policy to require that uses in the pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.
 - Local Coastal Program/ Downtown Specific Plan policy that Main Street should be a lively, active commercial district at the street level. The first floor of developments along Main Street should be commercial, with open-air establishments encouraged.
 - The use will be sited to assure that public sidewalks are visually and physically accessible to pedestrians.



VICINITY MAP
TEMPORARY USE PERMIT NO. 07-01
(HUNTINGTON SURF & SPORT – 126 MAIN STREET, UNIT 101)

RECOMMENDATION:

Motion to:

“Approve Temporary Use Permit No. 07-01 with findings and suggested conditions of approval (Attachment No.1).”

ALTERNATIVE ACTION(S):

The Planning Commission may take alternative actions such as:

- A. “Deny Temporary Use Permit No. 07-01 with findings for denial.” (**Appellant’s Request**)
- B. “Continue Temporary Use Permit No. 07-01 and direct staff accordingly.”

PROJECT PROPOSAL:

Temporary Use Permit No. 07-01 represents a request to permit temporary outdoor sales in conjunction with an existing retail establishment, on 49 scheduled days each year for five years from 2007-2011 pursuant to Section 241.20 (Temporary Use Permits) of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The use is proposed on private property within the Downtown Specific Plan district.

The outdoor display would occur near the southeast corner of Main Street and Walnut Avenue, on a paved area between the applicant’s retail store, Huntington Surf & Sport, and the public sidewalk. The applicant intends to display the merchandise tables and racks within an approximately 387 square foot cordoned area. Sales events will coincide with the normal business hours of the retail establishment (Everyday: 8AM - 9PM), on prescheduled days during the months of March through December (Attachment No. 3). A total of 49 days per year for each of the next five years is planned.

All sales transactions would occur inside the store. Customers intending to purchase outside merchandise would carry it to the register located inside the store. At least one store employee would be stationed at the display area during the sales events to assist customers as necessary. At the conclusion of each scheduled event day, the tables, racks, and merchandise would be moved inside the store.

Zoning Administrator Action:

The proposed temporary use permit was considered by the Zoning Administrator on February 28, 2007 (Attachment No. 4). The applicant spoke in support of the project. Written public comment was received from Ed Kerins on February 25, 2007, with concern pertaining to the temporary outdoor sales creating visual blight, and conflicting with pedestrian circulation and planned improvements for the Downtown area (Attachment 6). The Zoning Administrator approved the project based on the following findings:

- ◆ The proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan (Pedestrian Overlay District), Local Coastal Program (LCP) and Downtown Specific Plan (DTSP); and the provisions of Chapter 241 of the Huntington Beach Zoning and Subdivision Ordinance, including the following policies:

LU 15.2.2: Require that uses in the pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.

Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

LCP/DTSP: Main Street should be a lively, active commercial district at the street level. The first floor of developments along Main Street should be commercial, with open-air establishments encouraged.

- ◆ Approval of the proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. Proposed sales events will occur adjacent to the applicant’s storefront and will be sited to prevent interference with use of the surrounding area. The temporary use permit is conditioned to ensure that adequate public, disabled and emergency access will be maintained.

Appeal:

The Zoning Administrator’s approval of Temporary Use Permit No. 07-01 was appealed to the Planning Commission by Planning Commissioner Elizabeth Shier-Burnett for reasons stated in an appeal letter dated March 1, 2007 (Attachment No. 5). The reasons for the appeal are listed below:

- ◆ Concern pertaining to the five (5) year period granted for the subject property.
- ◆ Inconsistency between approval of the subject request and adjoining businesses with similar requests.
- ◆ Incompatibility with the aesthetics of the proposed outdoor sales events and the Downtown area.
- ◆ Concern regarding the total number of days per year allowed for temporary outdoor sales.

Code Enforcement History:

The City has no active code enforcement cases or knowledge of violations associated with the property.

ISSUES:

Subject Property And Surrounding Land Use, Zoning And General Plan Designations:

LOCATION	GENERAL PLAN	ZONING	LAND USE
Subject Property, South of the Subject Property, West of the Subject Property (across Main Street), & East of the Subject Property (across Alley)	MV-F12-sp-pd (Mixed Use Vertical—3.0 max. Floor Area Ratio—35 du/ac max.—Specific Plan Overlay—Pedestrian Overlay)	SP5-CZ (Downtown Specific Plan-District 3-Coastal Zone)	Commercial
North of Subject Property (across Walnut Avenue)	MV-F6/25-sp-pd (Mixed Use Vertical—2.0 max. Floor Area Ratio—25 du/ac max.—Specific Plan Overlay—Pedestrian Overlay)	SP5-CZ (Downtown Specific Plan-District 5-Coastal Zone)	Commercial

General Plan Conformance:

The proposed temporary use is consistent with the site's MV-12-sp-pd General Plan designation and the following General Plan goals and objectives:

- a. Goal LU 7: Achieve a diversity of land uses that sustain the City's economic viability, while maintaining the City's environmental resources and scale and character.
- b. Policy LU 15.2.2: Require that uses in the pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.

Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

- c. Policy UD 1.3.2: Develop or enhance the pedestrian environment along landscape corridors where there is existing or the potential for pedestrian activity.

The proposed use allows Huntington Surf & Sport to promote seasonal retail items on a temporary basis, which in turn helps to sustain the economic viability and promote pedestrian activity within the Downtown shopping district. The proposed sales area will be sited to maintain adequate clearance for pedestrian circulation and visibility.

Zoning Compliance:

This proposed temporary use complies with the applicable requirements of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and the Downtown Specific Plan. The HBZSO permits temporary outdoor sales and display of merchandise exceeding four days every three months in specific plan districts with approval of a Temporary Use Permit by the Zoning Administrator. In addition, a list of city code requirements, policies, and standard plans of the HBZSO and Municipal Code has been provided to the applicant for informational purpose only (Attachment No. 9).

Urban Design Guidelines Conformance:

The proposed project is in substantial conformance with the Urban Design Guidelines, Chapter 5 (Downtown/ Main Street Commercial). Although the Urban Design Guidelines do not directly address temporary events or outdoor retail sales/display areas, they encourage building elements designed in a way that enhances the visibility of merchandise and store related activities by pedestrians. The Guidelines also emphasize the importance of maintaining the visual interest at the street level.

Staff found the location of the outdoor display area to be consistent with the Guidelines, which encourage pedestrian-oriented, inviting, imaginative and functional site arrangements, and maintenance of views.

Environmental Status:

The project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Class 4, Section 15304 of the CEQA Guidelines because the project constitutes a minor temporary use of land having negligible or no permanent effects on the environment.

Coastal Status:

The proposed temporary use is exempt from coastal development permit requirements, pursuant to Section 245.10(E.2) – Categorical Exclusions.

Redevelopment Status:

The project site is located within the Main-Pier Redevelopment Project Area. The Economic Development Department has reviewed the proposal and expressed support for approval.

Design Review Board: Not applicable.

Subdivision Committee: Not applicable.

Other Departments Concerns:

The Departments of Public Works, Fire, Police, and Building and Safety have reviewed the proposed use. Recommended conditions have been incorporated into the conditions of approval.

Public Notification:

Legal notice was published in the Huntington Beach/Fountain Valley Independent on Thursday, April 12, 2007 and notices were sent to property owners of record and tenants within a 500 ft. radius of the subject property, individuals/organizations requesting notification (Planning Department's Notification Matrix), the applicant, and interested parties. As of April 17, 2007 one letter has been received in opposition to the project.

Application Processing Dates:

<u>DATE OF COMPLETE APPLICATION:</u>	<u>MANDATORY PROCESSING DATE(S):</u>
February 8, 2007	April 9, 2007

The project was heard by the Zoning Administrator on February 28, 2007 in compliance with the State of California Planning, Zoning, and Development Laws relative to mandatory processing times.

ANALYSIS:

The applicant is requesting approval for temporary outdoor sales on 49 scheduled days throughout the year, for a total of five years. The main issues to consider when reviewing this application are compatibility and pedestrian circulation.

Compatibility

The proposed temporary use will be compatible with the character of the pedestrian-oriented downtown shopping district. The type of use proposed was envisioned and encouraged in the original concept for the Downtown Specific Plan. The Specific Plan Concept called for commercial open-air establishments along Main Street as a means to stimulate activity and promote a lively atmosphere. The proposed temporary merchandise displays are expected to stimulate pedestrian and economic activity in the area by attracting attention to special seasonal sale merchandise.

Pedestrian Circulation

Staff has considered the pedestrian traffic implications of outdoor displays adjacent to the building during normal business hours and determined that adequate pedestrian access and circulation will be maintained. The proposed display area will be sited to maintain a minimum clear sidewalk width of ten feet along the north side (Walnut Street) and 16 feet-5 inches along the west side (Main Street). The proposed clearance meets the minimum ten foot clear pedestrian passage area required for outdoor dining along this block of Main Street. It also exceeds the four foot clear sidewalk width required for disabled and emergency access and all requirements of the Building & Safety, Fire, Police and Public Works Departments.

Previous Approvals

The Zoning Administrator’s approval of this request is consistent with other recent approvals for temporary outdoor uses in the Downtown, including various carts and kiosks and a similar Temporary Use Permit granted to Huntington Surf and Sport at 300 Pacific Coast Highway, Unit 104. The latter authorized sidewalk sales on 49 scheduled days each year over a five year period and sales to coincide with scheduled surfing contests.

The City has, over the last several years, authorized numerous multi-year and annually occurring outdoor events with Temporary Use Permits, in an effort to streamline permit processing and improve customer service. The following outlines the various formal actions taken by the City with respect to the subject site and similar temporary use permits granted for outdoor sales in the downtown area:

ENTITLEMENT	LOCATION	REQUEST	ACTION
Temporary Use Permit No. 05-01	126 Main Street, Unit 101 (Huntington Surf & Sport)	Outdoor sales for forty-nine (49) days per year for a period of five (5) years from 2005-2009	Approved for a period of two (2) years from 2005-2006 by the Zoning Administrator 4/20/05
Temporary Use Permit No. 01-03	126 Main Street, Unit 101 (Huntington Surf & Sport)	Outdoor sales for twenty-two (22) days per year for a period of four (4) years from 2001-2004	Approved by the Planning Commission on 7/10/01 based on an appeal of the Zoning Administrator’s action
Temporary Use Permit No. 03-06	300 Pacific Coast Highway, Suite 104. (Huntington Surf & Sport)	Outdoor sales for forty-nine (49) days per year for a period of five (5) year from 2004-2008.	Approved by the Zoning Administrator 2/11/04
Temporary Use Permit No. 97-20	300 Pacific Coast Highway, Suite 104 (Huntington Surf & Sport)	Outdoor sales for thirty-one (31) days for 1998.	Approved by the Zoning Administrator 10/29/97
Temporary Use Permit No. 03-05	101 Main Street (Jack’s Board Shop)	Outdoor sales for forty-seven (47) days per year for a period of five (5) years from 2004-2008	Approved by the Zoning Administrator 12/10/03
Temporary Use Permit No. 01-07	101 Main Street (Jack’s Board Shop)	Outdoor sales for twenty-nine (29) days per year for five (5) years from 2002-2006	Approved for a period of two (2) years from 2002-2003 by the Zoning Administrator 1/16/02

Appeal

The Zoning Administrator's approval of Temporary Use Permit No. 07-01 was appealed to the Planning Commission by Planning Commissioner Elizabeth Sheir-Burnett. An analysis of the appeal issues is provided below:

◆ *Incompatibility with the aesthetics of the proposed outdoor sales events and the Downtown area.*

The request has been determined to be consistent with the General Plan, Local Coastal Program, Downtown Specific Plan and Zoning and Subdivision Ordinance, as discussed above.

In addition to the policies referenced in the recommended findings for approval, which reflect the Pedestrian Overlay Land Use designation applied to the site, the proposed temporary use is also consistent with the General Plan Urban Design Element, which encourages pedestrian-scaled and oriented commercial uses, outdoor cafes, and a high intensity of activity in the Downtown. Similarly, as previously noted, the Downtown Specific Plan Concept envisioned open-air commercial establishments along Main Street. The proposed outdoor sales is consistent with the goals of the Downtown area by creating a pedestrian friendly area that generates activity and interest at street level thereby reinforcing the Downtown as a pedestrian-oriented and entertainment/recreation district.

◆ *Concern pertaining to the five (5) year period granted for the subject project.*

The five year approval is consistent with other similar Temporary Use Permit approvals granted by the City. Approval of a five year request is also deemed a more efficient and customer service friendly approach to permit processing than to require the applicant to submit a separate application for each of the five years proposed.

◆ *Concern regarding the total number of days per year allowed for temporary outdoor sales.*

The number of scheduled days is consistent with similar Temporary Use Permit approvals for the subject site and other retail vendors in the Downtown area. The requested dates coincide with special surfing events, seasonal sale periods, and holidays. The maximum number of days allotted per year for temporary activities is not addressed within the HBZSO, which relies solely on the discretion of the applicable hearing body to determine if the requested days will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. The two (2) years granted for the previous Temporary Use Permit for 49 days per year did not result in any violations relative to inconsistencies with the associated conditions of approval.

A proposal to permanently continue the Tuesday night downtown street fair ("Surf City Nights") will authorize commercial vendors of the first block of Main Street (between Pacific Coast Highway and Walnut Avenue) to participate in the closure, resulting in 52 additional outdoor sales days for the subject site in addition to the number of days requested. The closure has been successful with increased pedestrian activity and revenue for Downtown retail vendors, thereby creating a lively, active commercial district at the street level.

- ◆ *Inconsistency between approval of the subject request and adjoining businesses with similar requests.*

As summarized previously in this report, the Zoning Administrator has granted Temporary Use Permits to two other businesses in the Downtown to allow outdoor sales over a five year span. The number of days granted to those two businesses are essentially the same at 47 and 49 days per year. The Zoning Administrator's approval of Temporary Use Permit No. 07-01 is consistent with those prior actions.

SUMMARY:

Staff recommends approval of Temporary Use Permit No. 07-01 for the following reasons:

- The proposed use is consistent with the General Plan, the Downtown Specific Plan and the Local Coastal Program.
- The project complies with the base district and the HBZSO.
- The proposed use is compatible with character of the Downtown shopping district.
- Adequate clearance for pedestrian circulation will be maintained.
- The proposed use will help sustain the City's economic viability.

ATTACHMENTS:

1. Suggested Findings and Conditions of Approval
2. Site Plan dated March 2, 2007
3. Narrative dated January 8, 2007
4. Zoning Administrator Minutes dated February 28, 2007
5. Planning Commissioner Shier-Burnett appeal letter dated March 1, 2007
6. Letter from Ed Kerins dated February 25, 2007.
7. Zoning Administrator Notice of Action for TUP No. 03-05 (Jack's Board Shop) dated December 11, 2003
8. Site Plan for TUP No. 03-05 (Jack's Board Shop) dated October 14, 2003
9. Code Requirements Letter dated February 8, 2007

ATTACHMENT NO. 1

SUGGESTED FINDINGS AND CONDITIONS OF APPROVAL

TEMPORARY USE PERMIT NO. 07-01

SUGGESTED FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Class 4, Section 15304 of the CEQA Guidelines, because the project consists of a minor temporary use of land having negligible or no permanent effects on the environment

SUGGESTED FINDINGS FOR APPROVAL - TEMPORARY USE PERMIT NO. 07-01:

1. The proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan (Pedestrian Overlay District), Local Coastal Program and Downtown Specific Plan; and provisions of Chapter 241 of the Huntington Beach Zoning and Subdivision Ordinance, including the following policies:
 - LU 15.2.2: Require that uses in the Pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.

Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.
 - LCP/DTSP: Main Street should be lively, active commercial district at the street level. The first floor or developments along Main Street should be commercial, with open-air establishments encouraged.
 - UD 1.3.2: Develop or enhance the pedestrian environment along landscape corridors where there is existing or the potential for pedestrian activity.
2. Approval of the application for the proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. Proposed sales events will occur adjacent to the applicant's storefront and will be sited to prevent interference with use of the surrounding area. The two (2) years utilized for the previous temporary use permit had resulted in no violations relative to inconsistencies with the associated conditions of approval. In addition the temporary use permit is conditioned to ensure that adequate public, disabled, and emergency access will be maintained.

SUGGESTED CONDITIONS OF APPROVAL – TEMPORARY USE PERMIT NO. 07-01:

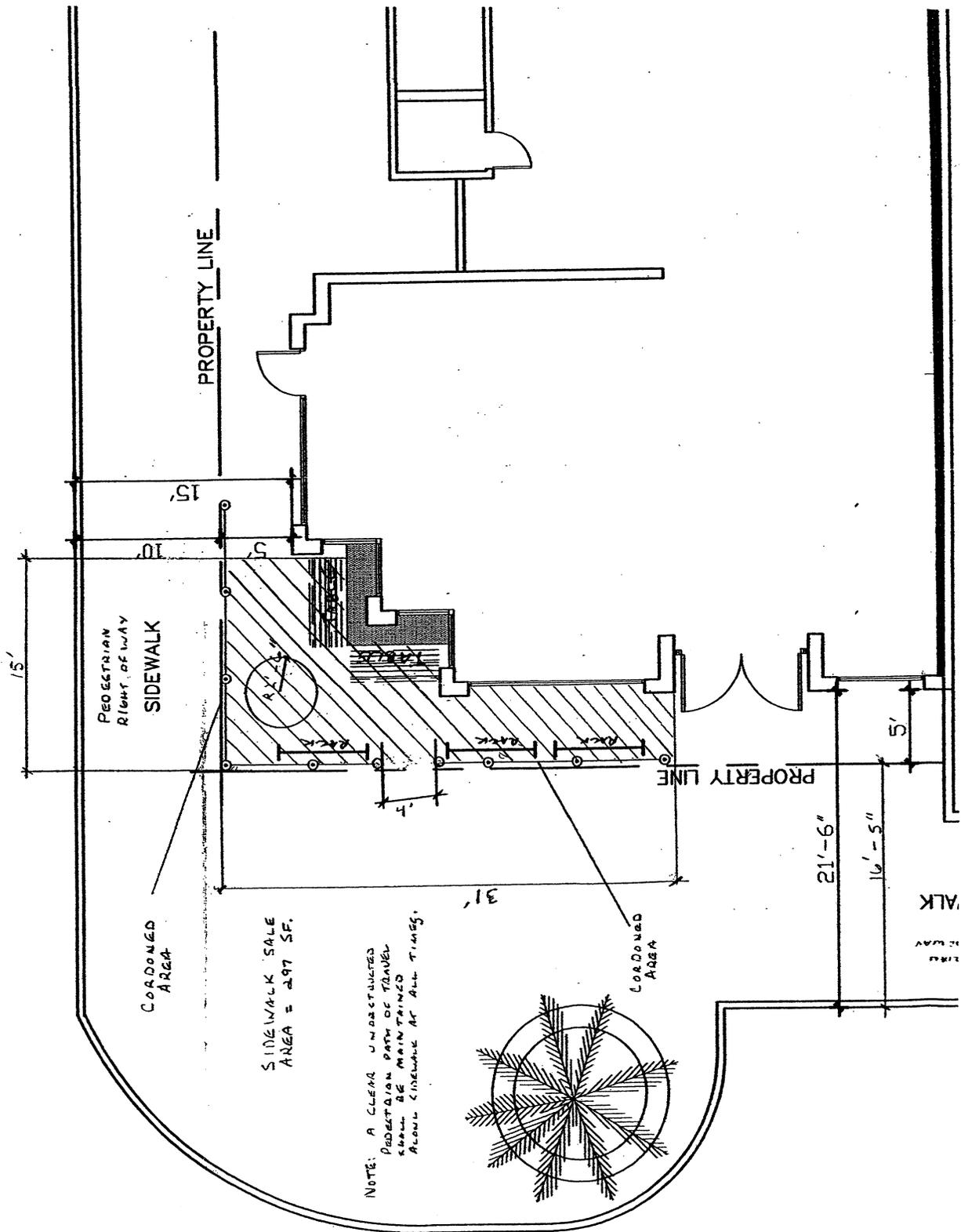
1. The site plan received and dated March 2, 2007, shall be the conceptually approved design.
2. Temporary Use Permit shall be valid for a maximum period of five years (2007-2011).
3. Prior (10 days minimum) to commencement of the use each year, a schedule (dates) for temporary sidewalk sales events to occur in that year (not to exceed 49 days), shall be submitted to the Planning Department.
4. The use shall comply with the following:
 - a. The temporary sales area shall be entirely confined to private property. Any encroachment into the public right-of-way shall be prohibited.
 - b. The sales area shall be cordoned off (i.e. roped off with a minimum 36" high barrier), nine feet from the building façade with intermittent openings every 10 to 15 feet for customer access.
 - c. Four-foot wide clearance shall be maintained along side the display racks within the "cordoned off" area between the sales racks and pedestrian pathway. **(B&S)**
 - d. A ten-foot wide clear path of travel shall be maintained along the sidewalk. Required pathways for patron and disabled access shall be maintained clear of obstructions. **(PW)**
 - e. All required exits and access ways to the tenant space, as determined by the Building & Safety Department, shall be maintained clear and free of obstructions. The minimum required access width shall be 48 inches. **(B&S, PW)**
 - f. All overhead obstruction shall be a minimum of 80 inches above the walking surface. **(B&S)**
 - g. All sales transactions shall occur inside the store.
 - h. Sales to patrons in vehicles or in the public right-of-way shall be prohibited.
 - i. Line formations within the public right-of-way shall be prohibited. **(PW)**
 - j. Sales events, including associated furniture, structures, patron lines, etc., shall not in any way interfere with access to any commercial establishment. **(B&S, PW)**
 - k. Furniture pieces shall weigh less than 35 pounds each. **(B&S)**
 - l. All displays associated with sales events shall be maintained in an orderly condition.
 - m. Only the uses described in the narrative and the dates and times in the approved schedule(s), shall be permitted. Any proposed change to the approved schedule and dates shall be submitted to the Planning Director for review and approval a minimum of ten days in advance of the planned event date.

5. After an initial warning(s), the Code Enforcement Division reserves the right to cease operation of the temporary outdoor sales in the event that the use is in violation of the conditions of approval of Temporary Use Permit No. 07-01.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

WALNUT STREET

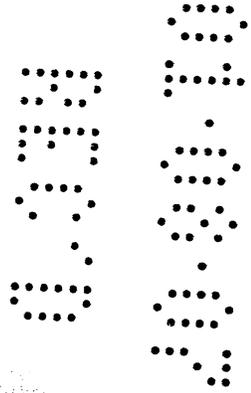




January 8, 2007

Mary Beth Broeren
Zoning Administrator
2000 Main Street
Huntington Beach, CA 92648

RE: Temporary Use Permit



Dear Mary Beth Broeren - Zoning Administrator,

HSS Girl's Surfshop, located at 126 Main Street, Huntington Beach would like to apply for a temporary use permit for outdoor sales. The sales will be held on approximately 49 days per year for a period of (5) years from 2007 – 2011. All cash register transactions are indoors and no cash registers located outside of the store. There are no tents or table coverings.

As you know, we coincide our Sidewalk Sale to special times of the year: Spring Break, Back to School and Holiday Season.

The actual square footage of the Sidewalk Sale space is 387 square feet. HSS would take the utmost care in properly presenting the City of Huntington Beach with a first class sidewalk sale, as we have done in the past.

Our proposed activities for the Sidewalk Sale dates would have approximately 2 employees and would be open from 8am to 9pm. All employees are under the direct supervision of our management. Our sidewalk sales allow us to employ more of the local youth in Huntington Beach for seasonal and part time work..

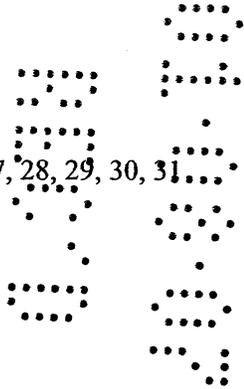
During our sidewalk sales we would be passing on bargains to our loyal customers in a pleasant environment. Many people look forward to our sidewalk sale each year. They have become somewhat of a tradition for our store and community. We make every effort to insure that we present an organized, neat and well-maintained area for the Sidewalk Sale.

Some of the surrounding uses of the HSS Girl's Surfshop are retail, restaurants and entertainment.

Please see the following page two for the proposed dates for upcoming years 2007 – 2011.

We are proposing to hold the Sidewalk Sale in front of our store on the following dates:

- 2007 April 6, 7, 13, 14, 20, 21
 May 25, 26
 June 8, 9, 15, 16
 August 10, 11, 12, 17, 18, 19, 24, 25, 26, 31
 September 1, 2, 3
 November 23, 24, 25
 December 1, 2, 8, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31
- 2008 March 21, 22, 29, 30
 July 19-27
 August 8, 9, 10, 15, 16, 17, 22, 23, 24
 September 5, 6, 7, 8
 November 27, 28, 29
 December 6, 7, 13, 14, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31
- 2009 April 10, 11, 18, 19
 July 25 – Aug. 2
 August 14, 15, 16, 21, 22, 23, 28, 29, 30
 September 4, 5, 6, 7
 November 26, 27, 28
 December 5, 6, 12, 13, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31
- 2010 April 2, 3, 10, 11
 July 24 – Aug. 1
 August 13, 14, 15, 20, 21, 22, 27, 28, 29
 September 3, 4, 5, 6
 November 25, 26, 27
 December 4, 5, 11, 12, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31
- 2011 April 22, 23, 30, May 1
 July 23 – 31
 August 12, 13, 14, 19, 20, 21, 26, 27, 28
 September 2, 3, 4, 5
 November 24, 25, 26
 December 3, 4, 10, 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31



Mary Beth, it is our hope that we are granted permission to allow us the opportunity to maintain our retail sales and continue to serve our loyal base of customers in our community.

Sincerely,

Aaron Pai

P.S. Happy New Year!

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 2007-004:

1. The site plan, floor plans, and elevations received and dated January 17, 2007, shall be conceptually approved design with the following modifications:
 - a. The common area landscaping located along the westerly property line between Units A and B shall be extended towards the east to the edge of the abutting garage.
 - b. The landscape planter and guest parking space located along the easterly property line abutting Unit C shall be relocated/extended towards the west to the edge of the abutting garage.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers, or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

ITEM 2: TEMPORARY USE PERMIT NO. 2007-001 (HUNTINGTON SURF & SPORT OUTDOOR SALES):

APPLICANT: Aaron Pai, 300 Pacific Coast Highway, Unit 408, Huntington Beach, CA
PROPERTY OWNER: Mohammed Zeidan, 200 Main Street, Unit 103, Huntington Beach, CA 92648
REQUEST: To permit temporary outdoor sales on approximately forty-nine (49) days per year for a period of five (5) years from 2007-2011.
LOCATION: 126 Main Street, Unit 101 (south-east corner of Main Street and Walnut Avenue)
PROJECT PLANNER: Andrew Gonzales

Andrew Gonzales, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. Staff presented an overview of the proposed project and the suggested findings and conditions of approval as presented in the executive summary. Staff stated this request replaces the existing 2005-2009 permit and is being requested with a modified time period of 2007-2011. Mr. Gonzales stated that the Department of Code Enforcement has not received any past notices of violations for temporary outdoor sales events at this location and Huntington Surf & Sport has adhered to its previous conditions of approval. Staff also stated that the Department of Economic Development and the Police Department had no objections to the request, and in addition, the Police Department indicated they have not received any reports of significant events at the subject site.

Staff stated that some inquiries had been received with concerns related to vendors in the downtown area violating the approved conditions with respect to outdoor sales events being conducted on days not approved by the City and displaying items in the public right-of-way. Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions

as presented in the executive summary along with the following additional conditions required by Department of Public Works:

The site plan shall include the following items:

- a. Square footage of the proposed sidewalk sale area.
- b. Indicate entire sidewalk sale area.
- c. Dimension the pedestrian path of travel in the City right-of-way.
- d. Indicate the pedestrian path of travel.
- e. Indicate with a note that a clear unobstructed pedestrian path of travel shall be maintained along the sidewalk at all times.
- f. Indicate the meaning of each symbol that appears on the site plan.

Mary Beth Broeren, Zoning Administrator, asked staff if there had been any communication in relation to the public notification and staff confirmed that one inquiry was received with concerns relating to vendors in general in the downtown area not abiding by the code requirements.

Ms. Broeren clarified with staff that the number of days (49 annually) requested remains the same as the previously approved permit, and this request is to ensure the dates fall on weekends rather than midweek.

Discussion ensued in relation to the number of racks, if on private property, the Building Department review, property line, and minimum clearance.

THE PUBLIC HEARING WAS OPENED.

Aaron Pai, applicant, asked for clarification with respect to the duration of the current Temporary Use Permit. Mr. Pai stated he was taking steps to address the issue of appearance for outdoor sales by using Disneyland as an example to his employees in order to portray that same level of excellence. Mr. Pai apologized and took full responsibility for any goods that may have mistakenly been displayed on public property in the past and assured the Zoning Administrator it would not happen again.

Kathy Schooley, Code Enforcement Officer for The City of Huntington Beach, stated that no complaints had been received and that Huntington Surf and Sport has always been in compliance with the codes.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.

Ms. Broeren confirmed with Mr. Pai his understanding of the recommended conditions of approval including the additional conditions from the Department of Public Works.

Ms. Broeren stated she had received an email communication from Mr. Ed Kerins with concerns about the busy corner and how the level of activity in this pedestrian environment may conflict with the request.

Ms. Broeren reiterated that the City has always found Huntington Surf & Sport to be a responsible operation and historically complaints have not been received. Ms. Broeren stated that it must be recognized that this is a busy intersection and approved permits are always subject to revocation if problems arise or there are violations. Ms. Broeren reminded the applicant of the importance of respecting the private property line vs. public right-of-way. Ms. Broeren confirmed with staff that the

width of the public sidewalk at its narrowest point exceeds the minimum code requirement by 5.5 ft., which will ensure adequate pedestrian clearance along the sidewalk.

Ms. Broeren summarized by stating that because what was being requested is consistent with the previous approval which had not resulted in any violations, the applicant may go forward with approval. Ms. Broeren stated she would approve the request with one change, and asked staff to modify suggested finding No.2 as follows:

The two (2) years utilized for the previous temporary use permit had resulted in no violations relative to inconsistencies with the associated conditions of approval.

TEMPORARY USE PERMIT NO. 2007-001 WAS APPROVED BY THE ZONING ADMINISTRATOR WITH THE FOLLOWING MODIFIED FINDINGS AND SUGGESTED CONDITIONS OF APPROVAL. THE ZONING ADMINISTRATOR STATED THAT THE ACTION TAKEN BY THE ZONING ADMINISTRATOR CAN BE APPEALED TO THE PLANNING COMMISSION WITHIN TEN (10) CALENDAR DAYS.

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15304 of the CEQA Guidelines, because the project consists of a minor temporary use of land having negligible or no permanent effects on the environment.

FINDINGS FOR APPROVAL - TEMPORARY USE PERMIT NO. 2007-001:

1. The proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan (Pedestrian Overlay District), Local Coastal Program and Downtown Specific Plan; and provisions of Chapter 241 of the Huntington Beach Zoning and Subdivision Ordinance, including the following policies:

LU 15.2.2: Require that uses in the Pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.

Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.

LCP/DTSP: Main Street should be lively, active commercial district at the street level. The first floor or developments along Main Street should be commercial, with open-air establishments encouraged.

2. Approval of the application for the proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. Proposed sales events will occur adjacent to the applicant's storefront and will be sited to prevent interference with use of the surrounding area. The two (2) years utilized for the previous temporary use permit had resulted in no violations relative to inconsistencies with the associated conditions of approval. In addition the temporary use permit is conditioned to ensure that adequate public, disabled, and emergency access will be maintained.

CONDITIONS OF APPROVAL - TEMPORARY USE PERMIT NO. 2007-001:

1. The site plan, floor plans, and elevations received and dated January 8, 2007, shall be the conceptually approved design.
2. Temporary Use Permit shall be valid for a maximum period of five years (2007-2011).
3. Prior (10 days minimum) to commencement of the use each year, a schedule (dates) for temporary sidewalk sales events to occur in that year (not to exceed 49 days), shall be submitted to the Planning Department.
4. The use shall comply with the following:
 - c. The temporary sales area shall be entirely confined to private property. Any encroachment into the public right-of-way shall be prohibited.
 - d. The sales area shall be cordoned off (i.e. roped off with a minimum 36" high barrier), nine feet from the building façade with intermittent openings every 10 to 15 feet for customer access.
 - e. Four-foot wide clearance shall be maintained along side the display racks within the "cordoned off" area between the sales racks and pedestrian pathway.
 - f. A ten-foot wide clear path of travel shall be maintained along the sidewalk. Required pathways for patron and disabled access shall be maintained clear of obstructions.
 - g. All required exists and access ways to the tenant space, as determined by the Building & Safety Department, shall be maintained clear and free of obstructions. The minimum required access width shall be 48 inches.
 - h. All overhead obstruction shall be a minimum of 80 inches above the walking surface.
 - i. All sales transactions shall occur inside the store.
 - j. Sales to patrons in vehicles or in the public right-of-way shall be prohibited.
 - k. Line formations within the public right-of-way shall be prohibited.
 - l. Sales events, including associated furniture, structures, patron lines, etc., shall not in any way interfere with access to any commercial establishment.
 - m. Furniture pieces shall weigh less than 35 pounds each.
 - n. All displays associated with sales events shall be maintained in an orderly condition.
 - o. Only the uses described in the narrative and the dates and times in the approved schedule(s), shall be permitted. Any proposed change to the approved schedule and dates shall be submitted to the Planning Director for review and approval a minimum of ten days in advance of the planned event date.
5. The site plan shall include the following items:
 - p. Square footage of the proposed sidewalk sale area.
 - q. Indicate entire sidewalk sale area.

- r. Dimension the pedestrian path of travel in the City right-of-way.
 - s. Indicate the pedestrian path of travel.
 - t. Indicate with a note that a clear unobstructed pedestrian path of travel shall be maintained along the sidewalk at all times.
 - u. Indicate the meaning of each symbol that appears on the site plan.
6. After an initial warning(s), the Code Enforcement Division reserves the right to cease operation of the temporary outdoor sales in the event that the use is in violation of the conditions of approval of Temporary Use permit 07-01.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

ITEM 3: CONDITIONAL USE PERMIT NO. 2007-002 (CORREA RESIDENTIAL ADDITION)

APPLICANT: Jay Earl, 16541 Mariana Circle, Huntington Beach, CA 92648
 PROPERTY OWNER: Ivan & Karen Correa, 1026 13th Street, Huntington Beach, CA 92648
 REQUEST: To permit a second floor addition to an existing single-story residence with an overall building height exceeding 30 ft. (approximately 32 ft).
 LOCATION: 1026 13th Street (south side of 13th Street, between Park and Lake Streets)
 PROJECT PLANNER: Andrew Gonzales

Andrew Gonzales, Staff Planner, displayed project plans and photographs and stated the purpose, location, zoning, and existing uses of the requested project. He presented an overview of the proposed project and the suggested findings and conditions for approval as presented in the executive summary.

Staff recommended approval of the request based upon the suggested findings and subject to the suggested conditions as presented in the executive summary. Staff stated that some comments were received with questions of a general nature from neighboring residents but no opposition to the project was received. No other written or verbal comments were received in response to the public notification.

THE PUBLIC HEARING WAS OPENED.

Elizabeth Shier-Burns, 1016 13th Street, neighboring property owner, spoke in support of the application and stated her approval of the elevation and the project design.

THERE WERE NO OTHER PERSONS PRESENT TO SPEAK FOR OR AGAINST THE REQUEST AND THE PUBLIC HEARING WAS CLOSED.



CITY OF HUNTINGTON BEACH PLANNING COMMISSION COMMUNICATION

TO: Scott Hess, Planning Commission Secretary

FROM: Elizabeth Shier-Burnett, Planning Commissioner *ESB*

SUBJECT: APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF TEMPORARY USE PERMIT NO. 07-01 (HUNTINGTON SURF & SPORT OUTDOOR SALES)

DATE: MARCH 1, 2007

Temporary Use Permit No. 07-01 (Huntington Surf & Sport Outdoor Sales) was approved by the Zoning Administrator on March 1, 2007. The subject property is located at 126 Main Street, Unit 101. The request is to permit temporary outdoor sales on approximately forty-nine (49) days per year for a period of five (5) years from 2007-2011. I am hereby appealing the Zoning Administrator's action based upon the following reasons:

1. Concern pertaining to the five (5) year period granted for the subject project.
2. Inconsistency between approval of the subject request and adjoining businesses with similar requests.
3. Incompatibly with the aesthetics of the proposed outdoor sales events and the Downtown area.
4. Concern regarding the total number of days per year allowed for temporary outdoor sales.

c: City Council
 Planning Commission
 Penelope Culbreth-Graft, City Administrator
 Andrew Gonzales, Assistant Planner

SH:RS:jc

Gonzales, Andrew

From: edkerins@netscape.net
Sent: Sunday, February 25, 2007 10:55 AM
To: Gonzales, Andrew; Broeren, Mary Beth; Hess, Scott; Culbreth-Graft, Penny
Cc: CITY COUNCIL; Dapkus, Pat; Fikes, Cathy
Subject: Main St. sidewalk sales Zoning Administrator hearing

On Wednesday, February 28 the Zoning Administrator will hear Temporary Use Permit 2007-001 requesting sidewalk sales for 49 days per year for a period of 5 years at the SE corner of Main St. and Walnut (perhaps the busiest pedestrian intersection in the city).

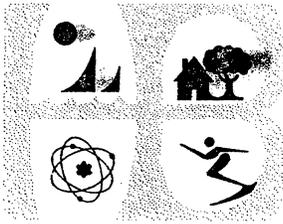
Residents continue to complain about Main St. sidewalk sales as they create visual blight and impede pedestrian traffic flow. Sales display customers continue to examine the merchandise in the public right of way.

The city is planning to spend over \$200,000 to upgrade Main St. Will the sidewalk sales be compatible or conflict with these expensive improvements? Will the city resolve the conflict between the constant flow of pedestrians weekend afternoons, the sidewalk sales, the tattoo parlor sales distributor and automobiles attempting to turn onto Walnut? Will the city council have the political will to mitigate or curtail these sidewalk sales?

Until these issues are resolved it is suggested the use receive no more than a one year approval and that a fee be assessed to pay for a code enforcement officer to assess compliance with the conditions of approval on weekend afternoons.

Ed Kerins

Check Out the new free AIM(R) Mail -- 2 GB of storage and industry-leading spam and email virus protection.



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

Phone 536-5271
Fax 374-1540
374-1648

NOTICE OF ACTION

December 11, 2003

Ron Abdelfattah
101 Main Street
Huntington Beach, CA 92648

SUBJECT: TEMPORARY USE PERMIT NO. 03-05 (JACK'S SURFBOARDS)

APPLICANT: Ron Abdelfattah

REQUEST: To permit outdoor sidewalk sales on approximately forty-three (43) days per year for a period of five (5) years from 2004-2008.

PROPERTY

OWNER: Ron Abdelfattah, 101 Main Street, Huntington Beach, CA 92648

LOCATION: 101 Main Street (northwest corner of Main Street, north of Pacific Coast Highway)

DATE OF

ACTION: December 10, 2003

On Wednesday, December 10, 2003, the Huntington Beach Zoning Administrator took action on your application, and your application was conditionally approved. Attached to this letter are the findings and conditions of approval.

Please be advised that the Zoning Administrator reviews the conceptual plan as a basic request for entitlement of the use applied for and there may be additional requirements prior to commencement of the project. It is recommended that you immediately pursue completion of the conditions of approval and address all requirements of the Huntington Beach Zoning and Subdivision Ordinance in order to expedite the processing/completion of your total application. The conceptual plan should not be construed as a precise plan, reflecting conformance to all Zoning and Subdivision Ordinance requirements.

Under the provisions of the Huntington Beach Zoning and Subdivision Ordinance, the action taken by the Zoning Administrator becomes final at the expiration of the appeal period. A person desiring to appeal the decision shall file a written notice of appeal to the Secretary of the Planning Commission within ten (10) calendar days of the date of the Zoning Administrator's action. The notice of appeal shall include the name and address of the

ATTACHMENT NO. 7.1

appellant, the decision being appealed, and the grounds for the appeal. A filing fee shall also accompany the notice of appeal. The appeal fee is \$1263.00 for a single-family dwelling property owner appealing the decision on his/her own property. The appeal fee is \$1540.00 for all other appeals. In your case, the last day for filing an appeal and paying the filing fee is December 22, 2003.

Provisions of the Huntington Beach Zoning and Subdivision Ordinance are such that any application becomes null and void one (1) year after final approval, unless actual construction has started.

You are hereby notified that you have 90 days to protest the imposition of the fees described in this Notice of Action. If you fail to file a written protest regarding any of the fees contained in this Notice, you will be legally barred from later challenging such action pursuant to Government Code §66020.

If you have any questions regarding this Notice of Action letter or the processing of your application, please contact Ron Santos, Assistant Planner at (714) 536-5561, or the Planning Department Zoning Counter at (714) 536-5271.

Sincerely,



Mary Beth Broeren
Zoning Administrator

MBB:RS:rk

Attachment

c: Property Owner

ATTACHMENT NO. 1

FINDINGS AND CONDITIONS OF APPROVAL

TEMPORARY USE PERMIT NO. 03-05

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Zoning Administrator finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to section 15304 of the CEQA Guidelines, because the project consists of a minor temporary use of land having negligible or no permanent effects on the environment.

FINDINGS FOR APPROVAL - TEMPORARY USE PERMIT NO. 03-05:

1. The proposed temporary use will be located, operated and maintained in a manner consistent with the policies of the General Plan (Pedestrian Overlay District), Local Coastal Program and Downtown Specific Plan; and provisions of Chapter 241 of the Huntington Beach Zoning and Subdivision Ordinance, including the following policies:
 - LU 15.2.2: Require that uses in the Pedestrian overlay district be sited and designed to enhance and stimulate pedestrian activity along the sidewalks.
Assure that areas between building storefronts and public sidewalks are visually and physically accessible to pedestrians.
 - LCP/DTSP: Main Street should be a lively, active commercial district at the street level. The first floor of developments along Main Street should be commercial, with open-air establishments encouraged.
2. Approval of the application for the proposed temporary use will not be detrimental to property or improvements in the surrounding area or to the public health, safety or general welfare. Proposed sales events will occur adjacent to the applicant's storefront and will be sited to prevent interference with use of the surrounding area. The temporary use permit is conditioned to ensure that adequate public, disabled, and emergency access will be maintained.

CONDITIONS OF APPROVAL – CONDITIONAL USE PERMIT NO. 03-05:

1. The site plan, floor plans, and elevations received and dated October 14, 2003 shall be the conceptually approved layout.
2. Prior (10 days minimum) to commencement of the use each year, a schedule (dates) for temporary sidewalk sales events to occur in that year (not to exceed 43 days), shall be submitted to the Planning Department.
3. The use shall comply with the following:
 - a. The temporary sales area shall be entirely confined to private property. Any encroachment into the public right-of-way shall be prohibited.
 - b. The sales area shall be cordoned off (i.e. roped off with a minimum 36" high barrier), nine feet from the building façade with intermittent openings every 10 to 15 feet for customer access.
 - c. Four-foot wide clearance shall be maintained along side the display racks within the "cordoned off" area between the sales racks and pedestrian pathway.
 - d. A ten-foot wide clear path of travel shall be maintained along the sidewalk. Required pathways for patron and disabled access shall be maintained clear of obstructions. **(BD/PW)**
 - e. All required exits and access ways to the tenant space, as determined by the Building & Safety Department, shall be maintained clear and free of obstructions. The minimum required access width shall be 48 inches. **(BD)**
 - f. All overhead obstructions shall be a minimum of 80 inches above the walking surface. **(BD)**
 - g. All sales transactions shall occur inside the store.
 - h. Sales to patrons in vehicles or in the public right-of-way shall be prohibited.
 - i. Line formations within the public right-of-way shall be prohibited.
 - j. Sales events, including associated furniture, structures, patron lines, etc., shall not in any way interfere with access to any commercial establishment. **(BD)**
 - k. Furniture pieces shall weigh less than 35 pounds each. **(BD)**
 - l. All displays associated with sales events shall be maintained in an orderly condition.
 - m. Only the uses, dates and times described in the narrative/schedule shall be permitted. Any proposed change shall be submitted to the Planning Director for review and approval a minimum of ten days in advance of the planned event date.
 - n. Compliance with all conditions of approval specified herein shall be accomplished and verified by the Planning Department.
4. After initial warnings, the Code Enforcement Division reserves the right to cease operation of the temporary outdoor sales in the event that the use is in violation of the conditions of approval of Temporary Use Permit 03-05.

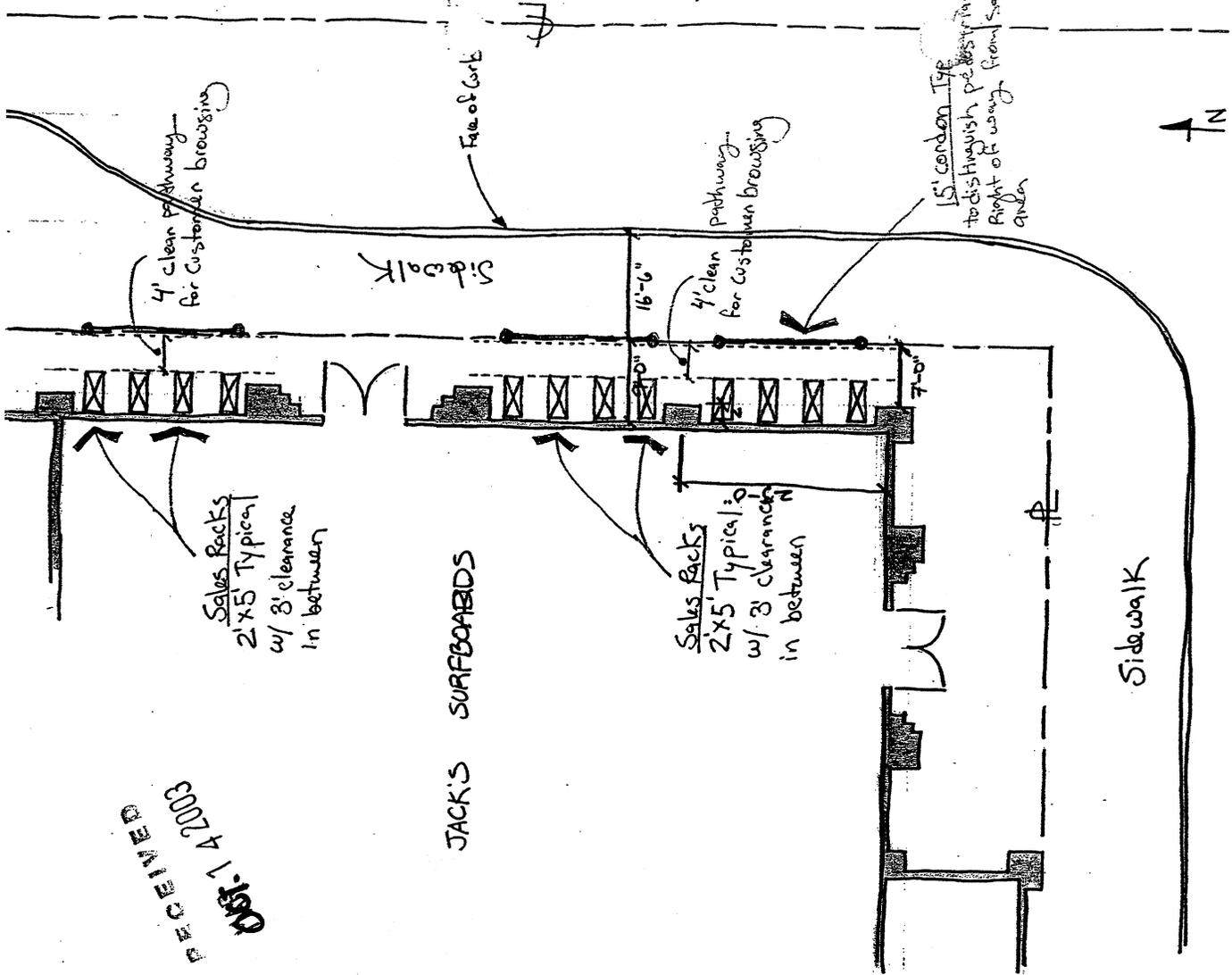
5. The Planning Director ensures that all conditions of approval herein are complied with. The Planning Director shall be notified in writing if any changes to the site plan, elevations and floor plans are proposed as a result of the plan check process. Building permits shall not be issued until the Planning Director has reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator's action and the conditions herein. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the Huntington Beach Zoning and Subdivision Ordinance.
6. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.

INFORMATION ON SPECIFIC CODE REQUIREMENTS:

1. Temporary Use Permit No. 03-05 shall not become effective until the ten-calendar day appeal period has elapsed.
2. Temporary Use Permit No. 03-05 shall become null and void unless exercised within one year of the date of final approval which is December 10, 2003 or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
3. The Zoning Administrator reserves the right to revoke Temporary Use Permit No. 03-05, pursuant to a public hearing for revocation, if any violation of these conditions or the Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
4. All permanent, temporary, or promotional signs shall conform to Chapter 233 of the HBZSO. Prior to installing any new signs, changing sign faces, or installing promotional signs, applicable permit(s) shall be obtained from the Planning Department. Violations of this ordinance requirement may result in permit revocation, recovery of code enforcement costs, and removal of installed signs.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.



3'-0" = 1'-0"
 N.T.S. P.C.H.

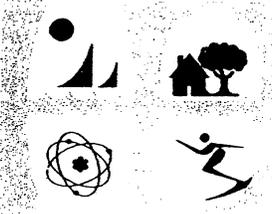
CONDITIONALLY APPROVED

CONCEPTUAL SITE PLAN

THIS REPRESENTS A CONCEPTUAL SITE PLAN ONLY
 IT IS NOT A PRECISE SITE PLAN APPROVAL AND
 DOES NOT NECESSARILY REFLECT CONFORMANCE
 TO ALL ORDINANCE CODE REQUIREMENTS.

PSANTOS FOR
 ZONING ADMINISTRATOR
 MARY BETH PROGEN

12-10-03
 DATE



City of Huntington Beach

2000 MAIN STREET

CALIFORNIA 92648

DEPARTMENT OF PLANNING

Phone 536-5271
Fax 374-1540

February 8, 2007

Aaron Pai
300 Pacific Coast Highway, Unit No. 408
Huntington Beach, CA 92648

**SUBJECT: TEMPORARY USE PERMIT NO. 2007-001 (126 MAIN STREET)
PROJECT IMPLEMENTATION CODE REQUIREMENTS**

Dear Mr. Pai,

In order to assist you with your development proposal, staff has reviewed the project and identified applicable city policies, standard plans, and development and use requirements, excerpted from the City of Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes. This list is intended to help you through the permitting process and various stages of project implementation.

It should be noted that this requirement list is in addition to any "conditions of approval" adopted by the Zoning Administrator. Please note that if the design of your project or site conditions change, the list may also change.

The attached project implementation code requirements may be appealed to the Planning Commission as a matter separate from the associated entitlement(s) within ten calendar days of the approval of the project pursuant to the Huntington Beach Zoning and Subdivision Ordinance Section 248.24. The appeal fee is \$494.00.

If you would like a clarification of any of these requirements, an explanation of the Huntington Beach Zoning & Subdivision Ordinance and Municipal Codes, or believe some of the items listed do not apply to your project, and/or you would like to discuss them in further detail, please contact me at 714-374-1547 or via email at agonzales@surfcity-hb.org and/or the respective source department (contact person below).

Sincerely,


Andrew Gonzales
Assistant Planner

Enclosure

cc: Gerald Caraig, Building and Safety Department – 714-374-1575
Lee Caldwell, Fire Department – 714-536-5531
Steve Bogart, Public Works – 714-536-1692
Herb Fauland, Acting Planning Manager
Jason Kelley, Planning Department
Mohammed Zeidan, 200 Main Street, Unit No. 103, Huntington Beach, CA 92648
Project File



CITY OF HUNTINGTON BEACH

PROJECT IMPLEMENTATION CODE REQUIREMENTS

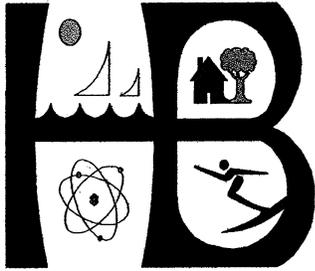
DATE: FEBRUARY 8, 2007
PROJECT NAME: HUNTINGTON SURF & SPORT OUTDOOR SALES
ENTITLEMENTS: TEMPORARY USE PERMIT NO. 07-01
PROJECT LOCATION: 126 MAIN STREET, HUNTINGTON BEACH
PLAN REVIEWER: ANDREW GONZALES, ASSISTANT PLANNER
TELEPHONE/E-MAIL: (714) 536-5271/ agonzales@surfcity-hb.org
PROJECT DESCRIPTION: TO PERMIT TEMPORARY OUTDOOR SALES ON FORTY-NINE (49) DAYS PER YEAR FOR A PERIOD OF FIVE (5) YEARS FROM 2007-2011.

The following is a list of code requirements deemed applicable to the proposed project based on plans received and dated January 8, 2007. The list is intended to assist the applicant by identifying requirements which must be satisfied during the various stages of project permitting and implementation. A list of conditions of approval adopted by the Zoning Administrator in conjunction with the requested entitlement(s), if any, will also be provided upon final project approval. If you have any questions regarding these requirements, please contact the Plan Reviewer.

TEMPORARY USE PERMIT NO. 07-01:

1. The site plan, floor plans, and elevations approved by the Zoning Administrator shall be the conceptually approved design.
2. The Development Services Departments (Building & Safety, Fire, Planning and Public Works) shall be responsible for ensuring compliance with all applicable code requirements and conditions of approval. The Director of Planning may approve minor amendments to plans and/or conditions of approval as appropriate based on changed circumstances, new information or other relevant factors. Any proposed plan/project revisions shall be called out on the plan sets submitted for building permits. Permits shall not be issued until the Development Services Departments have reviewed and approved the proposed changes for conformance with the intent of the Zoning Administrator's action. If the proposed changes are of a substantial nature, an amendment to the original entitlement reviewed by the Zoning Administrator may be required pursuant to the provisions of HBZSO Section 241.18.
3. The applicant and/or applicant's representative shall be responsible for ensuring the accuracy of all plans and information submitted to the City for review and approval.
4. Temporary Use Permit No. 07-01 shall not become effective until the ten calendar day appeal period from the Zoning Administrator approval of the entitlements has elapsed.

5. Temporary Use Permit No. 07-01 shall become null and void unless exercised within one year of the date of final approval, or such extension of time as may be granted by the Director pursuant to a written request submitted to the Planning Department a minimum 30 days prior to the expiration date.
6. The Zoning Administrator reserves the right to revoke Temporary Use Permit No. 07-01 pursuant to a public hearing for revocation, if any violation of the conditions of approval, Huntington Beach Zoning and Subdivision Ordinance or Municipal Code occurs.
7. The project shall comply with all applicable requirements of the Municipal Code, Building & Safety Department and Fire Department, as well as applicable local, State and Federal Fire Codes, Ordinances, and standards, except as noted herein.
8. The applicant shall submit a check in the amount of \$50.00 for the posting of the Notice of Exemption at the County of Orange Clerk's Office. The check shall be made out to the County of Orange and submitted to the Planning Department within two (2) days of the Zoning Administrator's action.
9. All landscaping shall be maintained in a neat and clean manner, and in conformance with the HBZSO. Prior to removing or replacing any landscaped areas, check with the Departments of Planning and Public Works for Code requirements. Substantial changes may require approval by the Zoning Administrator.
10. All permanent, temporary, or promotional signs shall conform to Chapter 233 of the HBZSO. Prior to installing any new signs, changing sign faces, or installing promotional signs, applicable permit(s) shall be obtained from the Planning Department. Violations of this ordinance requirement may result in permit revocation, recovery of code enforcement costs, and removal of installed signs.



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, FEBRUARY 27, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

6:00 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: P P P P A A P
Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley
(Commissioner Horgan, Dwyer excused absences)

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF FEBRUARY 27, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Farley
NOES: None
ABSENT: Horgan, Dwyer
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS) - NONE

B. STUDY SESSION ITEMS:

B-1. CITYWIDE AND HOLLY SEACLIFF SPECIFIC PLAN AFFORDABLE HOUSING REQUIREMENTS – Rami Talleh

Rami Talleh, Associate Planner, gave an overview of the affordable housing requirements for the city as well as the Holly Seacliff Specific Plan. He also explained how income levels are identified and the requirements regarding in-lieu fees.

Discussion ensued between the Commissioners and staff regarding the number of affordable housing units currently within the city, what signifies moderate income levels, and in-lieu fee requirements.

Commissioner Speaker explained that the Holly Seacliff Specific Plan had been reduced by 4,000 units from the original plan and moderate income levels were agreed upon for affordable housing.

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS):

Herb Fauland, Acting Planning Manager, reviewed the agenda items for the 7:00 p.m. portion of the meeting. He advised of four late communications received regarding public hearing Item B-1.

D. PLANNING COMMISSION COMMITTEE REPORTS - NONE

E. PUBLIC COMMENTS (Regarding Study Session Portion of Meeting):

The applicant for Item B-2 submitted a letter and spoke in favor of the proposed project. He stated he was available for questions.

F. PLANNING COMMISSION COMMENTS:

Chair Scandura stated that the Planning Commission Workshop has been scheduled for April 26, 2007, from 9:00 a.m. to 2 p.m. and is tentatively scheduled at the Jr. Guard Headquarters. He reminded the Commission of the upcoming City Council meeting on March 5th regarding Form Based Codes and the Zucker Report on Entitlement and Development Processing. Additionally, he stated he will represent the Planning Commission at the March 19th City Council meeting on the appeal of the Park Avenue Marina project.

6:30 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Speaker

ROLL CALL: *P* *P* *P* *P* *A* *A* *P*
Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley
(Commissioner Horgan, Dwyer excused absences)

AGENDA APPROVAL

A MOTION WAS MADE BY FARLEY, SECONDED BY LIVENGOOD, TO APPROVE THE PLANNING COMMISSION AGENDA OF FEBRUARY 27, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Farley
NOES: None
ABSENT: Horgan, Dwyer
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS:

- B-1. CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL). Applicant: Phil Burtis. Request: To permit a K-8 school for up to 229 students, pre-school for up to 100 students, day care (before/after-school) for up to 150 children, church services for up to 168 people, Sunday school for up to 100 children, infant/toddler care for up to 20 children and the addition of four 24 ft. by 60 ft. modular classroom buildings at an existing closed school site. Location: 5172 McFadden Ave (south side of McFadden Ave., east of Bolsa Chica St.). Project Planner: Ron Santos**

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 06-26 with findings and suggested conditions of approval."

The Commission made the following disclosures:

- Commissioner Shier-Burnett has visited the site many times.
- Commissioner Livengood stated he is a member of the church, but not a Board Member, he has visited the site many times.
- Commissioner Speaker recused himself.
- Chair Scandura walked the site, spoke with city and school staff.
- Commissioner Farley visited the location.

Ron Santos, Associate Planner, gave a PowerPoint presentation of the proposed project highlighting the areas of concern by the Police Department and the Design Review Board. The main concerns were windows to be placed in the mobile units, skirting, and painting the units to match the rest of the school buildings. He stated that the parking on site meets the zoning code requirement for the proposed project. He stated that four late communications had been received; one of which was submitted by the applicant in objection to two of the suggested conditions of approval.

Commissioner Livengood asked who was responsible for maintenance of the fields. Santos stated that as property owner, the Ocean View School District has responsibility.

Commissioner Shier-Burnett questioned one of the late communications regarding a walkway, rats and a missing wall. Santos stated that the property in question is a public right of way where the adjacent owner has taken down the wall. The Public Works Department has been notified of the issue.

Chair Scandura voiced concern regarding the window recommendation for the mobile buildings as there is sufficient view of the fields provided at that location.

Shier-Burnett reported that on her visit to the school she noticed there was no barrier to separate the playing field which ran alongside the easterly driveway. She stated that children were present and perhaps a fence should be required along the driveway to protect the playing children.

THE PUBLIC HEARING WAS OPENED

Phil Burtis, Applicant, spoke in favor of the project and stated that he is very concerned for child safety. He requested that the window requirement in the storage building be removed as it is not necessary because the portable classrooms have windows to observe the children while they are playing.

Mitch Todd, resident, voiced his opposition to the project due to parking issues already present in the area. He stated that the church/school would bring too many vehicles to the neighborhood and there is not sufficient parking provided. He added that the American Youth Soccer Organization (AYSO) has field rights and they take up many of the parking spaces.

Philip Hice, AYSO Commissioner, stated he was available for questions.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Shier-Burnett requested information regarding AYSO permission to use the fields and parking.

Mr. Hice stated that the Ocean View School District allotted AYSO the field and the use of the parking lots at the school. He added that he is in favor of a fence being installed along the easterly driveway.

Discussion ensued between Commissioners, staff, Mr. Hice, and Mr. Burtis regarding AYSO's use of the fields, fence installation, and a sign program.

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY FARLEY TO APPROVE CONDITIONAL USE PERMIT NO. 06-26 WITH FINDINGS AND CONDITIONS FOR APPROVAL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Scandura, Farley
NOES: None
ABSENT: Horgan, Dwyer
ABSTAIN: Speaker

MOTION APPROVED

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 06-26

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 of the CEQA Guidelines, which states that the operation of existing facilities and structures involving negligible additions and expansion of use are exempt from further environmental review.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:

1. Conditional Use Permit No. 06-26 for the establishment, maintenance and operation of a K-8 School for up to 229 students; pre-school for up to 100 students; day care (before/after-school) for up to 150 children; church with Sunday morning worship services for up to 168 people; Sunday school (during worship) for up to 100 children; infant/toddler care for up to 20 children and four 24 ft. by 60 ft. portable classroom buildings on site will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed project represents use of existing facilities designed and intended for the primary use proposed (school). The proposed church use and additional classrooms represent only a minor expansion of the prior/historical use of the site. In addition, a traffic study has been prepared by a licensed professional traffic engineer and reviewed by City staff. The study concludes that no significant traffic impacts will result and adequate parking is provided on site to ensure no detrimental impacts to surrounding properties.

2. The conditional use permit will be compatible with surrounding uses because the proposed school, child care and church represent neighborhood-serving, institutional uses which support the needs of the community. The proposed uses will occupy existing facilities with a long standing presence in the community.

3. The proposed church/child care/school use will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The HBZSO permits private schools, child care and religious assembly uses in the PS zoning district with approval of a conditional use permit by the Planning Commission. No variances are proposed and the project will be required to provide additional landscaping within the front setback and block wall fencing along the residential property line, as necessary for compliance with current HBZSO development standards.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of P(RL) (Public – Residential Low Density Underlying Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

Objective LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental administrative, public safety, human service, cultural, educational, infrastructure, religious, and other uses that support the needs of existing and future residents and businesses.

Policy LU 13.1.1: Allow for the continuation of existing public and private institutional, cultural, educational and health uses at their present locations and development of new uses in areas designated on the Land Use Plan Map in accordance with Policy LU 7.1.1

Policy LU13.1.2: Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to the city review and approval.

Policy LU 13.1.6: Encourage surplus schools and other public properties to be made available first for other public purposes, such as parks, open space, adult or child care, and secondarily for reuse for private purposes and/or other land uses and development.

B. Public Facilities and Public Services Element

Policy PF 4.3.1: Continue to encourage the operation of public services, such as elderly or child day care, at "closed" school sites

Policy PF 4.3.2: Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities, such as churches, temples, other religious buildings, hospitals and schools.

Approval of the requested conditional use permit furthers the General Plan Objectives and Policies identified above by providing for the establishment of educational, religious, and child care uses that serve the surrounding neighborhoods. In addition, the project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes, including child day care.

CONDITIONS OF APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:

1. The site plan, floor plans, and elevations received and dated January 12, 2007 shall be the conceptually approved design with the following modifications:
 - a. The portable classroom buildings shall be painted to match the existing classroom buildings. (DRB)
 - b. The portable classroom buildings shall be fitted with skirts. (DRB)
 - c. A semi-permanent landscape planter a minimum of three feet in width shall be installed in lieu of temporary planter boxes proposed along the north and east sides of the easterly most portable classroom building, adjacent to the parking lot. (DRB)
2. Prior to issuance of building permits for the portable classroom buildings, the following shall be completed:
 - a. A coordinated sign and pavement marking program shall be submitted for review by the Planning Department. The program shall include signs at the driveway entrances, sign(s) providing contact information for Grace Lutheran and AYSO, and sign(s) directing vehicles to the overflow parking area.
 - b. A 42-inch tall chain-link fence (or equivalent) shall be installed along the westerly side of the grass play fields. The fence shall include gates and/or openings for pedestrian and maintenance vehicle access to the fields. The precise design of the fence shall be subject to review and approval by the Planning Department.

3. The use shall comply with the following:
 - a. Only the uses described in the narrative received and dated February 15, 2007 shall be permitted.
 - b. The school/church shall encourage carpooling by providing incentives to parents of school children (e.g., discounts, gifts, etc.). A program to encourage carpooling shall be developed and submitted to the Planning Department for review and approval prior to installation of the portable classroom buildings.
 - c. The school/church shall explore opportunities to provide van/bus transportation options for students.
 - d. A maximum of three designated staff shall be permitted to park in the westerly parking lot. All other staff shall be required to park in the easterly parking lot.
 - e. Drop-off/ pick-up times for pre-school students and K-8 students shall be staggered by a minimum of 30 minutes respectively. Parents of school children and the Planning Department shall be provided written notice of the drop-off/ pick-up schedules and procedures.
 - f. The paved area at the southeast corner of the site shall be made available for overflow parking purposes as necessary for all school/church special events occurring on site. A plan showing proposed parking lot striping shall be submitted for review and approval by the Planning Department.

INDEMNIFICATION AND HOLD HARMLESS CONDITION:

The owner of the property which is the subject of this project and the project applicant if different from the property owner, and each of their heirs, successors and assigns, shall defend, indemnify and hold harmless the City of Huntington Beach and its agents, officers, and employees from any claim, action or proceedings, liability cost, including attorney's fees and costs against the City or its agents, officers or employees, to attack, set aside, void or annul any approval of the City, including but not limited to any approval granted by the City Council, Planning Commission, or Design Review Board concerning this project. The City shall promptly notify the applicant of any claim, action or proceeding and should cooperate fully in the defense thereof.

- B-2. ENTITLEMENT PLAN AMENDMENT NO. 06-05 (TUSCANY DEVELOPMENT AFFORDABLE HOUSING MODIFICATION – AMENDMENT TO TENTATIVE TRACT MAP NO. 16740).** **Applicant:** Michael C. Adams. **Request:** To amend Condition of Approval No. 3(a) which requires that five on-site for-sale units be made available to moderate income families for a period of 60 years. The proposed amendment is to require that the project comply with the affordable housing requirements of the Holly Seacliff Specific Plan (HSSP) and Huntington Beach Zoning and Subdivision Ordinance (HBZSO) and delete specific references to the number of units, type of units (for-sale or rental), and the affordability levels. **Location:** 19150 Gothard St. (East side of Gothard St., south of Garfield Ave.). **Project Planner:** Rami Talleh

STAFF RECOMMENDATION: Motion to: “Deny Entitlement Plan Amendment No. 06-05 with finding for denial.”

The Commission made the following disclosures:

- Commissioner Shier-Burnett drove by the site and spoke with staff.
- Commissioner Livengood drove by the site.
- Commissioner Speaker drove by the site.
- Chair Scandura drove by the site, spoke with Mike Adams, and was involved with the Tuscany Development project.
- Commissioner Farley drove by the location.

Rami Talleh, Associate Planner, gave a PowerPoint presentation and reviewed the proposed amendment, the affordable housing requirements and qualifying income levels. He stated that the proposed amendment to condition number 3(a) does not meet the requirements of the Huntington Beach Zoning and Subdivision Ordinance and Holly Seacliff Specific Plan. Talleh presented an alternative condition which complies with the applicable code requirements and provides the Applicant with some flexibility with compliance with the project’s affordable housing requirements.

THE PUBLIC HEARING WAS OPENED

Mike Adams, Applicant, spoke in favor of the project and requested the modification be made. He also stated that he is in favor of the staff alternative condition. He made himself available for questions.

Commissioner Speaker addressed Mr. Adams and questioned the agreement the applicant made initially to abide by the affordable housing requirement.

Adams stated that interest rates and building costs have increased and are therefore making it more difficult to allow for the affordable housing initially agreed upon with the City. He approximated the additional expense to the applicant would be \$71,000 per unit.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Discussion ensued between the Commissioners and the Applicant regarding timelines, additional building costs, and the initial affordable housing agreement between the Applicant and the City.

A MOTION WAS MADE BY FARLEY, SECONDED BY SPEAKER TO DENY ENTITLEMENT PLAN AMENDMENT NO. 06-05 WITH FINDINGS FOR DENIAL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Farley
NOES: Livengood, Scandura
ABSENT: Horgan, Dwyer
ABSTAIN: None

MOTION APPROVED

FINDING FOR DENIAL

ENTITLEMENT PLAN AMENDMENT NO. 06-05

FINDING FOR DENIAL - ENTITLEMENT PLAN AMENDMENT NO. 06-05:

The proposed Entitlement Plan Amendment No. 06-05 to amend Condition of Approval No. 3(a) of TTM No. 16740 which requires that five on-site for-sale units be made available to moderate income families by deleting specific references to the number of units, type of units (for-sale or rental), location, and the affordability will not comply with Section 230.26 of the Huntington Beach Zoning and Subdivision Ordinance. The HBZSO requires that conditions of approval must specify the number of affordable units provided and the income level of each unit as it relates to the Orange County median income.

C. CONSENT CALENDAR - NONE

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING

Scott Hess, Acting Director of Planning – reported on the items from the previous City Council meeting.

E-2. CITY COUNCIL ITEMS FOR NEXT MEETING

Scott Hess, Acting Director of Planning – reported on the items scheduled for the next City Council meeting.

E-3. PLANNING COMMISSION ITEMS FOR NEXT MEETING

Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett – None.

Commissioner Speaker – None.

Vice-Chairperson Livengood – Requested staff explore design options regarding the types of fencing, gates, and drive approach width for Item B-1.

Chairperson Scandura – Requested staff provide a report on Code Enforcement status regarding a deteriorated block wall along the east property line at the Grace Lutheran Church property.

Commissioner Farley – None.

Commissioner Horgan – Absent.

Commissioner Dwyer – Absent.

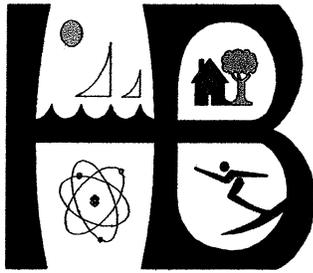
ADJOURNMENT:

Adjourned at 8:35 p.m. to the next regularly scheduled meeting of March 13, 2007.

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MARCH 13, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:30 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: *P* *P* *P* *P* *P* *P* *P*
Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY SPEAKER, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF MARCH 13, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS):

A-1. ENTITLEMENT PLAN AMENDMENT NO. 07-01 (PIERSIDE PAVILION MODIFICATION TO MIX OF USES) - Rami Talleh

CONTINUED TO A DATE UNCERTAIN AT THE APPLICANT'S REQUEST

A-2. REQUEST FOR RECONSIDERATION OF CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL) - Ron Santos

Ron Santos, Associate Planner, gave an overview of request for reconsideration and the appeal made by Councilmember Green. He stated that the appeal was made in order to preserve the ten day period and allow for reconsideration.

Discussion ensued between the Commission and staff regarding the appeal process and participation of Commissioners in the vote.

Commissioner Livengood voiced his concern regarding the evacuation plan as stated in a letter from the applicant and asked that it be addressed in the public hearing.

Commissioner Shier-Burnett asked the Commissioners to review the east parking site prior to the next meeting.

Santos reminded the Commission that part of the reconsideration is a restatement of findings for approval.

A MOTION WAS MADE BY SHIER-BURNETT, SECONDED BY HORGAN, TO APPROVE THE REQUEST FOR RECONSIDERATION OF CONDITIONAL USE PERMIT NO. 06-26, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Scandura, Horgan, Farley
NOES: None
ABSENT: None
ABSTAIN: Speaker, Dwyer

MOTION APPROVED

B. STUDY SESSION ITEMS - NONE

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS) - NONE

D. PLANNING COMMISSION COMMITTEE REPORTS:

Commissioner Farley reported on the March 1, 2007, Environmental Board meeting, which included a presentation by Rainbow Disposal regarding their new recycling program. Other issues covered were the City's water quality plan and solar energy.

Commissioner Horgan reported that the Greenbuilding Committee has set a timeline to present information at the Planning Commission study session; the first tentative date will be in April.

Commissioner Livengood reported that the Design Review Board met and advised they are in the process of reviewing the Zucker Report. He also stated he will be unable to attend the next Planning Commission meeting slated for April 10, 2007.

E. PUBLIC COMMENTS (Regarding Study Session Portion of Meeting) - NONE

F. PLANNING COMMISSION COMMENTS:

Commissioner Shier-Burnett reminded the Commission to attend the Tuesday night street fairs in the Downtown area.

Commissioner Speaker questioned the City's policy on street sweeping and the impact to neighborhood parking.

Chair Scandura asked when Code Enforcement would provide information on the block wall issues at Robinwood School. He also stated that Paul Emery, Deputy City Administrator, will be soliciting input on the Zucker Report for the next 60 days. He suggested the Commission submit comments and concerns at the April 24, 2007, Planning Commission study session.

Scott Hess, Acting Director of Planning, reported on three appeals; the status of the recruitment for the Director of Planning position; and a City Council mixed-use tour scheduled for Thursday, March 15, 2007.

Leonie Mulvihill, Senior Deputy City Attorney, reported on the requirement to submit Conflict of Interest 700 Forms. She also outlined several dates in which the City Attorney's Office will provide answers to possible questions regarding the form.

ADJOURNMENT:

Adjourned at 6:25 p.m. to the next regularly scheduled meeting of March 27, 2007.

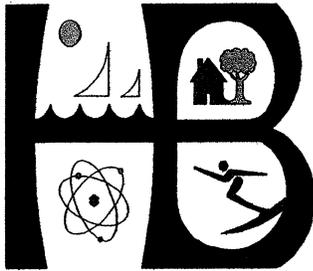
7:00 P.M. – COUNCIL CHAMBERS

CANCELLED: NO PUBLIC HEARINGS

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair



MINUTES

HUNTINGTON BEACH PLANNING COMMISSION

TUESDAY, MARCH 27, 2007

HUNTINGTON BEACH CIVIC CENTER

2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648

5:45 P.M. - ROOM B-8 (CITY HALL LOWER LEVEL)

CALL PLANNING COMMISSION MEETING TO ORDER

ROLL CALL: P P P P P A P
Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley
(Commissioner Dwyer arrived at 5:50 p.m.)

AGENDA APPROVAL

A MOTION WAS MADE BY LIVENGOOD, SECONDED BY FARLEY, TO APPROVE THE PLANNING COMMISSION STUDY SESSION AGENDA OF MARCH 27, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Farley

NOES: None

ABSENT: Dwyer

ABSTAIN: None

MOTION APPROVED

A. PROJECT REVIEW (FUTURE AGENDA ITEMS):

A-1. ZONING TEXT AMENDMENT NO. 06-08 (SECTION 230.96 – WIRELESS COMMUNICATION FACILITIES) – Rosemary Medel

Rosemary Medel, Associate Planner, gave an overview of the 2006 moratorium and the proposed amendments which modifies the currently established criteria for wireless communication facilities.

Commissioner Farley asked if under grounding of the facilities was an option.

Leonie Mulvihill, Senior Deputy City Attorney, stated that the ordinance made under grounding more consistent.

Commissioner Speaker questioned who would be responsible for removal of the facilities if the company was bankrupt. Mulvihill stated that the issue is being discussed and perhaps a bond would be set in place.

B. STUDY SESSION ITEMS:

B-1. BRIGHTWATER SPECIFIC PLAN STATUS – Chair Scandura

Chair Scandura introduced the topic and indicated that Commissioner Horgan requested information regarding the Brightwater project.

Scott Hess, Planning Director, suggested a major projects update be held at the next study session.

C. AGENDA REVIEW (UPDATE ON ALL AGENDA ITEMS):

Herb Fauland, Acting Planning Manager, reviewed the agenda items for the 7:00 p.m. portion of the meeting. He advised of two late communications received from the applicant regarding public hearing Item B-1.

D. PLANNING COMMISSION COMMITTEE REPORTS:

Commissioner Shier-Burnett reported there will be a Green Building Subcommittee meeting on March 29th, and that she attended the League of California Cities Planning Conference in San Diego.

Commissioner Livengood reported that Commissioner Speaker will be attending the next Design Review Board meeting scheduled for April 12, 2007.

E. PUBLIC COMMENTS (Regarding Study Session Portion of Meeting) - NONE

F. PLANNING COMMISSION COMMENTS:

Commissioner Dwyer stated that he attended the 2007 Chamber of Commerce Planning Conference and was impressed by the information and presentations. He also inquired if the Planning Commission could be invited.

Chair Scandura thanked Bill Zylla, Neighborhood Preservation Manager, for the report on a block wall located at Robinwood School and requested updates on the issue.

6:30 P.M. – RECESS FOR DINNER

7:00 P.M. – COUNCIL CHAMBERS

CALL PLANNING COMMISSION MEETING TO ORDER

PLEDGE OF ALLEGIANCE – Led by Commissioner Farley

ROLL CALL: P P P P P P P
Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley

AGENDA APPROVAL

A MOTION WAS MADE BY HORGAN, SECONDED BY LIVENGOOD, TO APPROVE THE PLANNING COMMISSION AGENDA OF MARCH 27, 2007, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

A. ORAL COMMUNICATIONS - NONE

B. PUBLIC HEARING ITEMS:

B-1. RECONSIDERATION OF CONDITIONAL USE PERMIT NO. 06-26 (GRACE LUTHERAN CHURCH/SCHOOL). Applicant: Phil Burtis. Request: To permit a K-8 school for up to 229 students, pre-school for up to 100 students, day care (before/after-school) for up to 150 children, church services for up to 168 people, Sunday school for up to 100 children, infant/toddler care for up to 20 children and the addition of four 24 ft. by 60 ft. modular classroom buildings at an existing closed school site. Location: 5172 McFadden Ave. (south side of McFadden Ave., east of Bolsa Chica St.). Project Planner: Ron Santos

STAFF RECOMMENDATION: Motion to: "Approve Conditional Use Permit No. 06-26 with findings and suggested conditions of approval."

The Commission made the following disclosures:

- Commissioner Shier-Burnett attended the study sessions on February 27 and March 13, 2007; requested the reconsideration of this item; and visited the site on three occasions.
- Commissioner Livengood attended the study sessions; spoke with the applicant, staff, Commissioners Shier-Burnett and Horgan.
- Commissioner Speaker recused himself.
- Chair Scandura visited the site; spoke with staff, and Mr. Chase; and attended study sessions.
- Commissioner Farley attended study sessions and visited the site.
- Commissioner Dwyer attended the March 13, 2007, study session; reviewed the tape of the February 27, 2007, Planning Commission meeting; and visited the site.
- Commissioner Horgan attended the March 13, 2007, study session; reviewed the tape of the February 27, 2007, Planning Commission meeting; and visited the site.

Ron Santos, Associate Planner, gave a Powerpoint presentation of the project. He reviewed the project and the condition of approval requiring a fence as the basis for the reconsideration. He reviewed the uses of the area in question and options for fencing. Santos stated he received one telephone call from a resident regarding parking issues near the school and two late communications were received from the applicant regarding the requirement.

Commissioner Livengood questioned the school's right to use the entire site.

Dave Dominguez, Community Services Facilities Manager, stated that there is a field allocation process through Ocean View School District which allocates the field to youth sports organizations such as the American Youth Soccer Organization (AYSO).

Discussion ensued between the Commissioners, the applicant and staff regarding the uses of the fields and the presence of children at the area in question.

THE PUBLIC HEARING WAS OPENED

Phil Burtis, Applicant, thanked the Planning Commission for their reconsideration and stressed the importance of child safety to the Grace Lutheran staff. He advised that a fence on the east side of the driveway would not be necessary for child safety as the church does not use the field. He stated that only the AYSO players use the field.

Philip Hice, AYSO Commissioner, stated that he does hold a field allocation permit for the property from the Ocean View School District and the proposed daycare would impact their parking and present child safety issues due to increased traffic. Mr. Hice added that AYSO uses the north field because of an agreement with the school so they may have a playground. He advised that AYSO would consider splitting the cost of the fence with Grace Lutheran Church.

WITH NO ONE ELSE PRESENT TO SPEAK, THE PUBLIC HEARING WAS CLOSED.

Discussion ensued regarding pickup and drop off areas for the proposed daycare facility, the cost of the fence, speed bump installation, and mandating the Ocean View School District incurs the cost of the fence.

Mulvihill stated that the Ocean View School District is not the applicant for the proposed use therefore, has no incentive and is not required to pay for the fence.

Commissioner Shier-Burnett reviewed her visits to the school and the north field in question. She stated that children were present other than AYSO players, no adult supervision was apparent, and that vehicles were using the driveway. She added that the parking areas were not being efficiently utilized which added to congestion and child safety issues.

Commissioner Farley reiterated to the Commission that AYSO games are not the reason the fence is necessary.

Scandura reminded the applicant that other conditions had been lifted from the proposed project and that the fence is a necessity.

A MOTION WAS MADE BY SHIER-BURNETT, SECONDED BY FARLEY TO APPROVE CONDITIONAL USE PERMIT NO. 06-26 WITH FINDINGS AND MODIFIED CONDITIONS FOR APPROVAL, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Scandura, Horgan, Dwyer, Farley
NOES: Horgan
ABSENT: None
ABSTAIN: Speaker

MOTION APPROVED

FINDINGS AND CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 06-26

FINDINGS FOR PROJECTS EXEMPT FROM CEQA:

The Planning Commission finds that the project will not have any significant effect on the environment and is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15301, Class 1 of the CEQA Guidelines, which states that the operation of existing facilities and structures involving negligible additions and expansion of use are exempt from further environmental review.

FINDINGS FOR APPROVAL - CONDITIONAL USE PERMIT NO. 06-26:

1. Conditional Use Permit No. 06-26 for the establishment, maintenance and operation of a K-8 School for up to 229 students; pre-school for up to 100 students; day care (before/after-school) for up to 150 children; church with Sunday morning worship services for up to 168 people; Sunday school (during worship) for up to 100 children; infant/toddler care for up to 20 children and four 24 ft. by 60 ft. portable classroom buildings on site will not be detrimental to the general welfare of persons working or residing in the vicinity or detrimental to the value of the property and improvements in the neighborhood. The proposed project represents use of existing facilities designed and intended for the primary use proposed (school). The proposed church use and additional classrooms represent only a minor expansion of the prior/historical use of the site. In addition, a traffic study has been prepared by a licensed professional traffic engineer and reviewed by City staff. The study concludes that no significant traffic impacts will result and adequate parking is provided on site to ensure no detrimental impacts to surrounding properties.
2. The conditional use permit will be compatible with surrounding uses because the proposed school, child care and church represent neighborhood-serving, institutional uses which support the needs of the community. The proposed uses will occupy existing facilities with a long standing presence in the community.
3. The proposed church/child care/school use will comply with the provisions of the base district and other applicable provisions in Titles 20-25 of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO). The HBZSO permits private schools, child care and religious assembly uses in the PS zoning district with approval of a conditional use permit by the Planning Commission. No variances are proposed and the project will be required to provide additional landscaping within the front setback and block wall fencing along the

residential property line, as necessary for compliance with current HBZSO development standards.

4. The granting of the conditional use permit will not adversely affect the General Plan. It is consistent with the Land Use Element designation of P(RL) (Public – Residential Low Density Underlying Designation) on the subject property. In addition, it is consistent with the following goals and policies of the General Plan:

A. Land Use Element

Objective LU 9.4: Provide for the inclusion of recreational, institutional, religious, educational and services uses that support resident needs within residential neighborhoods.

Objective LU 13.1: Provide for the continuation of existing and development of new uses, such as governmental administrative, public safety, human service, cultural, educational, infrastructure, religious, and other uses that support the needs of existing and future residents and businesses.

Policy LU 13.1.1: Allow for the continuation of existing public and private institutional, cultural, educational and health uses at their present locations and development of new uses in areas designated on the Land Use Plan Map in accordance with Policy LU 7.1.1

Policy LU13.1.2: Allow for the continuation of existing and development of new religious facilities in any land use zone where they are compatible with adjacent uses and subject to the city review and approval.

Policy LU 13.1.6: Encourage surplus schools and other public properties to be made available first for other public purposes, such as parks, open space, adult or child care, and secondarily for reuse for private purposes and/or other land uses and development.

B. Public Facilities and Public Services Element

Policy PF 4.3.1: Continue to encourage the operation of public services, such as elderly or child day care, at "closed" school sites

Policy PF 4.3.2: Investigate the feasibility of permitting and/or providing child or elderly day care services at public and private institutional facilities, such as churches, temples, other religious buildings, hospitals and schools.

Approval of the requested conditional use permit furthers the General Plan Objectives and Policies identified above by providing for the establishment of educational, religious, and child care uses that serve the surrounding neighborhoods. In addition, the project provides for the adaptive re-use of existing institutional facilities (a closed school site) for semi-public purposes, including child day care.

C. CONSENT CALENDAR:

C-1. PLANNING COMMISSION MINUTES DATED JANUARY 9, 2007

RECOMMENDED ACTION: Motion to: "Approve the January 9, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY HORGAN, SECONDED BY DWYER, TO APPROVE THE JANUARY 9, 2007, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Horgan, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: None

MOTION APPROVED

C-2. PLANNING COMMISSION MINUTES DATED JANUARY 23, 2007

RECOMMENDED ACTION: Motion to: "Approve the January 23, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY DWYER, SECONDED BY FARLEY, TO APPROVE THE JANUARY 23, 2007, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Speaker, Livengood, Scandura, Dwyer, Farley
NOES: None
ABSENT: None
ABSTAIN: Horgan

MOTION APPROVED

C-3. PLANNING COMMISSION MINUTES DATED FEBRUARY 13, 2007

RECOMMENDED ACTION: Motion to: "Approve the February 13, 2007, Planning Commission Minutes as submitted."

A MOTION WAS MADE BY FARLEY, SECONDED BY SHIER-BURNETT, TO APPROVE THE FEBRUARY 13, 2007, PLANNING COMMISSION MINUTES AS SUBMITTED, BY THE FOLLOWING VOTE:

AYES: Shier-Burnett, Livengood, Scandura, Horgan, Farley
NOES: None
ABSENT: None
ABSTAIN: Speaker, Dwyer

MOTION APPROVED

D. NON-PUBLIC HEARING ITEMS - NONE

E. PLANNING ITEMS

E-1. CITY COUNCIL ACTIONS FROM PREVIOUS MEETING
Scott Hess, Acting Planning Director - reported on the items from the previous City Council meeting.

- E-2. **CITY COUNCIL ITEMS FOR NEXT MEETING**
Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next City Council meeting.
- E-3. **PLANNING COMMISSION ITEMS FOR NEXT MEETING**
Herb Fauland, Acting Planning Manager – reported on the items scheduled for the next Planning Commission meeting.

F. PLANNING COMMISSION ITEMS

F-1. PLANNING COMMISSION REQUEST ITEMS – NONE

F-2. PLANNING COMMISSION COMMENTS

Commissioner Shier-Burnett – Wished Commissioner Farley a happy birthday and reported that she and Commissioner Farley attended the green building tour offered at the League of California Cities Planning Conference in San Diego.

Commissioner Speaker – None.

Vice-Chairperson Livengood – Advised he would be unable to attend the April 10, 2007, Planning Commission meeting.

Chairperson Scandura – Reported that five of the seven Commissioners attended the League of California Cities Planning Conference in San Diego on March 21-23. He also wished Commissioner Farley a happy birthday and commended Commissioner Shier-Burnett on the research she conducted regarding Item B-1.

Commissioner Farley – Wished Chair Scandura a happy birthday.

Commissioner Horgan – None.

Commissioner Dwyer – Thanked the League of California Cities for the Planning Conference and stated that more items on green building would be appreciated in future conferences.

ADJOURNMENT:

Adjourned at 8:20 p.m. to the next regularly scheduled meeting of April 10, 2007.

APPROVED BY:

Scott Hess, Secretary

John Scandura, Chair

